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THE

VICTORIAN STATUTES.

Rules, Orders, and Regulations

OF

THE COURT OF VICE-ADMIRALTY, THE PRIVY COUNCIL, THE SUPREME COURT, THE COUNTY COURTS, THE COURT OF INSOLVENCY, THE COURTS OF MINES, AND FOR PROCEEDINGS BEFORE WARDENS, ETC.;

HISTORICAL TABLE OF LEGISLATION;

CHRONOLOGICAL TABLE OF ACTS;

INDEX TO THE STATUTES;

AND

INDEX TO THE RULES.

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PART I.

RULES AND REGULATIONS

MADE IN PURSUANCE OF

AN ACT OF PARLIAMENT PASSED IN THE SECOND YEAR OF THE REIGN OF HIS MAJESTY KING WILLIAM THE FOURTH,

TOUCHING THE

PRACTICE TO BE OBSERVED IN SUITS AND PROCEEDINGS IN THE SEVERAL

COURTS OF VICE-ADMIRALTY ABROAD,

AND

ESTABLISHED BY THE KING'S ORDER IN COUNCIL BEARING DATE THE 27TH DAY OF JUNE 1832.

RULES AND REGULATIONS

OF THE

COURT OF VICE-ADMIRALTY.

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RULES AND REGULATIONS.

§ 1. As to the holding of Courts.

Courts are to be regularly held at short intervals by adjournment from day to day; but the judge is authorized to sit on any intermediate day as hereinafter provided, in case the despatch of business, or other necessity, shall require. The practice which has prevailed in many of the Vice-Admiralty courts of presenting a petition to the judge to appoint a day for holding a court is from henceforth to cease.

The judge is to be at convenient times accessible at his chambers, that he may be, if necessary, consulted by the registrar on any incidental matter, or for the purpose of hearing a motion by counsel, or directing the sale of perishable goods, or doing any other act which the emergency of a case may render requisite to be done.

§ 2. Surrogates.

The admitted advocates of each court are to be appointed surrogates, to do, in the absence of the judge, ordinary or common form acts (but none other), such as the administering an oath to a witness, decreeing a monition, taking bail, and the like; but in those courts in which the advocate is allowed to act as proctor also, no judicial act of any kind is to be sped by a practitioner in any cause in which he may be professionally retained or interested.

When an advocate is to be admitted a surrogate, he is to attend with the registrar before the judge, and, on being sworn faithfully to execute his office, is to be admitted. The registrar is then to make an entry of such admission in the minute or assignation book, and attest the same.

§ 3. Registrar and Marshal to be sworn.

The persons to be appointed to execute the several offices of registrar and marshal are to be sworn faithfully to perform their respective duties.

§ 4. Registry Office.

The registry of the court is to be accessible to suitors at convenient hours in the day throughout the year; and a person of competent skill and knowledge is to be in regular attendance there for all requisite purposes.

§ 5. Registrar's Duties.

The duty of the registrar is to attend all sittings of the court, and also before the judge or surrogate in chambers, and to make minutes of every act of court or decree, and to enter the same in an assignation book, to be kept for the purpose, which is to form a record of the proceedings of the court; he is to file, or take the custody of all pleas, depositions, documents, exhibits, and papers brought into court, recording the receipt thereof in the assignation book, briefly stating the papers so received, and the date of their receipt. He is to take the depositions of all witnesses examined upon pleas and interrogatories. If from illness, or any other sufficient cause, he should be unable to perform this duty, he may, with the consent of the judge, appoint some other competent person to act for him on those occasions. He is to make, or procure to be made, translations of such documents in foreign languages brought into court as may be required by the judge or by the proctor of either party. He is to make and to attest copies of all records, documents, and papers that may be requisite. He is to draw all bail-bonds, or recognizances, and to be present at and attest the execution thereof before the judge or surrogate. He is to prepare, sign, and seal all warrants, commissions, and instruments issuing under the seal of the court. He is also to collect from the practitioners, and receive for the judge's use, the fees payable to him. He is to have the custody of all moneys paid into court, and to remit them when required, by bills of exchange or other valid securities, to England. He is prohibited from acting either as advocate or proctor in any suit, matter, or proceeding in the court of which he is registrar.

§ 6. Marshal's Duties.

The marshal is to attend the judge in court on all court-days. He is to inquire and report as to the sufficiency of persons proposed for bail. He is to execute all such warrants, decrees, monitions, and other instruments as shall be issued from the court, and be directed to him; and he is to make due returns thereof.

In cases where, in order to avoid expense, it may be deemed requisite to employ others than the marshal to execute process at any great distance from the court, the instrument is to be addressed as follows :—

"To all and singular mayors, justices of the peace, bailiffs, constables, officers and ministers of justice, or literate persons whomsoever, and more especially to the Collector and Comptroller of Our Customs at the port of ————;" or in some similar form, if more appropriate to the existing authorities in the colony.

And on those occasions either the Collector or Comptroller of the Customs is to be preferred, unless they are parties to, or interested in, the suit.

And with the same view of avoiding expense, it is expedient that other duties which properly belong to the office of marshal, and which require to be performed at a distance from the court, be executed by others; in which cases, commissions are to be addressed specially to any competent persons by name resident near the place where such duties are to be performed.

§ 7. Proceedings by Action.

These are to commence with an entry by a proctor, in a book to be kept in the registry for that purpose, called the "Action Book," of the action in a given sum sufficient to cover the demand and the probable amount of costs; but this sum is on no account to be excessive. Before any warrant is issued, the party applying for the same is to exhibit to the registrar an affidavit, setting forth the nature of the demand, that application for payment has been made without effect to the parties concerned, and that the aid and process of the court are required for the enforcement thereof. Upon the leaving of this affidavit in the registry, a warrant, specifying the amount of the action, may issue to arrest the property proceeded against, or the person in cases where personal arrest is lawful; but personal arrest is never to be resorted to when the ends of justice can be otherwise obtained. The proctor, having obtained the warrant from the registrar, is to make a copy of it, and then deliver the warrant and copy to the marshal, with instructions for the execution of the process. If the instrument is to be served on a ship, cargo, and freight at different places, as many different copies thereof as are requisite must be made by the proctor for that purpose. Every copy is to be examined with the original by the marshal, or the person serving the instrument.

§ 8. Execution of Warrants.

When a ship is, or a ship and cargo are, to be arrested, the warrant is to be affixed on the mainmast or some conspicuous part

of the vessel for a short time, and a collated copy of it left on board; and when goods only are to be arrested (either for the purpose of proceeding against such goods, or the freight due thereon), the warrant is to be affixed for a short time on part of the goods, and a collated copy thereof left thereon, or with any person in whose actual custody the goods may be.

In cases of personal arrest, the warrant under seal of the court must be shown to the party before he is taken into custody.

A certificate of the service of every warrant executed by the marshal is to be indorsed thereon, and signed by him, in which he is to set forth the time when, and the mode by which, the service was effected.

When a warrant is served by any other person than the marshal, there must be, in addition to a similar certificate of the person serving it, his affidavit in verification thereof.

The warrant having been served is to be delivered back to the proctor to be by him returned into the registry at the time when it purports to be returnable; and the registrar is then to attend with the proctor before a judge or surrogate, and enter a minute in the assignation book that the warrant has been returned duly served and executed.

§ 9. Appearance and Bail.

After the entry of an action, and before the issue of a warrant, the defendant may voluntarily appear and give bail, and thus avoid the expense consequent on the issue of process.

An appearance alone, without bail, may be sufficient for the purpose of contesting a suit, but in cases of the arrest of property or of the person, either the demand must be satisfied, or competent bail given, before the property or person is released from the arrest.

In order to avoid unnecessary detention when the arrest is to take place at a distance from the court, a commission for taking bail is to accompany the warrant, as an authority to the party serving the warrant to release the individual or the property on sufficient bail being given.

§ 10. Proceeding by Default.

In the case of property arrested, and no party appearing after the return of the warrant, the cause may proceed by default, or *in pœnam contumaciæ*. To this end, on the day the warrant is returned, the parties cited and not appearing are, at the petition of the proctor, to be pronounced by the judge or surrogate to be in default, and an entry to that effect is to be added by the registrar to the minute on the return of the warrant in the assignation book.

At the expiration of two months from the return of the warrant, if no appearance be given, the parties cited are again to be pronounced in default, and the promoter is to be entitled to a decree pronouncing for the amount of his demand, and giving him a lien on the property; which decree is to be drawn by the proctor, who, after it has been perused and settled by the registrar, is to make a fair copy of it for the court.

An affidavit in verification of all the facts mentioned in the decree is to be made by the party proceeding, which affidavit is to be drawn by the proctor, and submitted to the registrar.

The proctor is then to prepare a short case detailing the proceedings, which, with a copy of the affidavit, he is to deliver to counsel as instructions to move the court to sign the decree, of which, when signed by the judge, the registrar is to make a minute in the assignation book.

On the same court-day, or on any subsequent adjourned court-day, if an affidavit of two persons be exhibited, stating that the property proceeded against is perishable and likely to deteriorate in value, the judge is to direct a decree of appraisement and sale to issue, of which the registrar is also to make an entry. This decree is then to be delivered by the registrar to the proctor, and by the latter to the marshal, with instructions for its execution. The marshal is thereupon to select a broker, or other person conversant with the value of the property, and to administer an oath to him justly and faithfully to inventorize and appraise the ship, her tackle, apparel, and furniture, or the goods, as the case may be. An inventory and appraisement are then to be made, and the marshal is to cause the property to be publicly advertised by printed bills or otherwise, and, after sufficient public notice of the intended sale, to be sold by auction. The sale being completed, the marshal is to return the decree (with the certificate as to the execution thereof) into court, or before the judge or surrogate in chambers, and to bring in at the same time the inventory and appraisement, with a more extended return of the marshal and appraiser, signed by them, setting forth the particulars and the value of the ship or goods as appraised; and he is also to bring the account of sales and proceeds into the registry within the time specified in the decree.

If the property be of considerable value, two brokers or appraisers may be employed, provided there is sufficient reason for the same. The property is never to be sold under the appraised value unless by special order of the court; and if the appraised value cannot be obtained after an attempt to sell, the marshal is to exhibit an affidavit, of at least two persons, stating that the property had been duly advertised and put up at public auction, when only a certain sum was bid for the same. And if the judge be then satisfied that all has been done as properly and fairly as if the owner himself had been selling his own property, he is to direct the same to be sold at a reduced price, but not for less than a sum which he in his discretion is to fix. A minute of such order is to be entered by the registrar in the assignation book, and the property is then to be offered again to sale by public auction.

When the proceeds are brought into the registry, the registrar may pay out of court to the party proceeding, on his application for that purpose, the amount of the debt pronounced for, together with the costs of the suit, the same being first duly taxed and allowed by the judge.

When a decree pronouncing for the interest of a party proceeding by default has been signed by the judge, if any other party should also proceed against the property, he will be entitled, on motion of

counsel, to have his interest pronounced for by an interlocutory decree, after the warrant has been returned two months, and a second default has been incurred in his particular suit. On this occasion a similar affidavit must be exhibited to that required on obtaining the decree for the interest of the party who had originally proceeded by default.

The balance of proceeds, if any remain in the registry after satisfying the amount pronounced for and costs, may, on production of the ship's register, or other satisfactory evidence of ownership, be paid out to the owner. But if his application be made within a year and a day from the return of the warrant, he is to give bail to answer latent demands.

The sufficiency of sureties are to be reported upon by the marshal, and the bail must be given in the manner hereinafter mentioned respecting bail to answer an action in a contested suit.

In a case proceeding by default, or *in pœnam*, the owners of the property are to be allowed to contest the suit at any time before the expiration of a year and a day from the return of the warrant; but if they neglect to appear until they have been pronounced in default, they must, on appearing, pay contumacy fees, viz., all the costs occasioned by such their neglect, including the charges for keeping possession beyond the time specified in the warrant for its return, which costs are to be taxed by the court.

§ 11. Contested Suits.

In contested suits the property remains in the custody of the court, but if the release thereof be a material object to the owner, or to the party defendant, it may be delivered to him on sufficient bail by two persons severally in the amount for which the action has been entered. Causes of possession, however, are not bailable unless by the special direction of the judge. Bail to answer an action, and all bail-bonds or recognizances are to be given in the following manner:—

The proctor who is to produce the sureties is to furnish the marshal and also the adverse proctor with the particulars, in writing, of the names of the proposed bail, their address and occupation; and the marshal, having made due inquiry as to their sufficiency, is to deliver his report thereon to the proctor proposing the bail, who is then to instruct the registrar to prepare the bail-bond. The registrar, the two proctors, and their sureties, are then to attend the judge or surrogate, and, upon the recognizances being duly entered into, the property is to be released upon an instrument to be drawn by the marshal and issued immediately after bail has been given. This form is to be dispensed with when the bail is taken by commission.

It is competent to the adverse proctor to object to the proposed sureties, in which case the judge is immediately to decide on the validity of the objections. If the adverse proctor do not attend at the production of the sureties, the bail may be taken *ex parte* upon an affidavit, to be prepared by the proctor producing them, that he has given twenty-four hours' notice in writing of their names, address, and occupation, which affidavit is to be left in the registry.

Should a party appear under protest, either objecting to the jurisdiction of the court or on any other ground on which he means to contend that he is not liable to answer the action, his appearance must be entered by the registrar in the assignation book, as given under protest, and the party so appearing is to be assigned to deliver his act on protest to the adverse proctor within a limited time. The same course of proceeding is to be pursued on the act on protest as in cases of acts on petition (hereafter stated) up to the time of the hearing, when the judge is either to pronounce for the protest and dismiss the suit, or overrule the protest and assign the party to appear absolutely, and the cause is then to proceed as if no appearance on protest had been given.

In contested suits the facts may be established either by libel or plea, and the examination of witnesses thereon styled "Plea and Proof;" or by an "Act on Petition," supported by affidavits, to which may be annexed exhibits or other documents to be verified in the affidavits.

§ 12. Proceedings by Plea and Proof.

When an appearance has been entered, the defendant is entitled to an assignation on the plaintiff to exhibit a libel within a time to be limited by the judge.

The libel or plea is to be drawn by the plaintiff's proctor and settled by counsel, and then a fair copy, signed by counsel, is to be made for the court, and brought in pursuant to the assignation; a copy is also to be delivered to the adverse proctor, and each proctor is entitled to make copies for the use of his counsel at the hearing.

There may be annexed to the libel or plea, documents or exhibits pleaded or referred to therein, of which copies are to be made in like manner, the originals being brought into court. And upon the libel or plea being brought in, the judge is to assign to hear, on admission thereof, on the next court-day, or at a time to be named by him. The defendant's proctor may then lay the libel or plea before counsel for his advice, if the same be opposable, and if it be deemed by him not sufficient in law (supposing it to be true) to warrant the plaintiff's prayer, the admission of it may be opposed; whereby, if the plaintiff has no legal cause of action, the suit may be stopped *in limine*, it being the duty of the judge to reject all pleas which, if assumed to be true, will not justify him in pronouncing a decree for the party giving in such plea. Or if the plea contains matter unnecessary or irrelevant to the cause of action, or is drawn in too diffuse or argumentative a manner, the admission thereof may be opposed. Upon these objections coming on to be debated, the judge will order the plea to be admitted, reformed, or altogether rejected, as he shall see cause. If ordered to be reformed, the judge will in his discretion direct the objectionable matter to be expunged and other points modified. If ordered to be rejected, such rejection puts an end to the suit.

On the libel being debated, a case on each side is to be prepared by the respective proctors, and delivered to counsel with copies of the libel and of the exhibits, if any, which copies, however, must afterwards serve for the use of counsel at the final hearing.

Pleas, the admissibility of which is not objected to, are admitted to proof of course.

Pleas or allegations given in the subsequent stage of a cause may be admitted, reformed, or rejected in a similar manner.

On the libel being admitted, the proctor giving in the same is to be assigned to prove its contents by evidence within a time to be limited by the judge, and the party giving in the plea is entitled, if he desire it, to the personal answers in writing of the adverse party. In that case a decree for answers is to be extracted from the registry, and served on the party, by showing him the original under seal, and leaving with him a copy thereof. The answers are to be drawn by the proctor for the party required to give in the same, who must answer specifically to all the facts or allegations in the plea which are within his own knowledge, by either admitting or denying the same; and as to all other matters, he must answer to his belief or disbelief.

No extraneous or irrelevant matter is to be introduced, but the party may set forth any matter necessary to explain his answer. If any facts are introduced which are capable of proof by witnesses they must be established by evidence regularly taken on a plea. The answers are to be settled by counsel, and then the party attended by his proctor is to be sworn to the truth thereof before the judge or surrogate in the presence of the registrar, who is to make and sign an attestation at the foot thereof. The registrar is then to file them and make a minute in the assignation book of their having been sworn and brought into court. The adverse proctor may immediately inspect them without waiting for publication, and may have an office copy of them. And if they be insufficient, redundant, or contain matter not pertinent, may be objected to in the same manner as a libel or plea.

If after the return of a decree personally served the party does not give in his answer within the time assigned, the judge may decree an attachment against him for his contumacy; but, notwithstanding this measure, the proctor for the plaintiff may proceed with the production of his witnesses, and take other requisite steps in the cause.

§ 13. Examination of Witnesses.

The name of the witness, and a designation of the specific articles of the libel or plea on which he is to be examined, must be delivered to the adverse proctor and to the registrar or examiner, whereupon the proctor giving in the plea is to attend the witness and produce him before the judge or surrogate, in court or chambers, when the witness is to be immediately sworn in the presence of the registrar. Due notice of his intended production must be given to the adverse proctor, who may attend if he think fit. On the witness being so sworn, the registrar is to make an entry thereof in the assignation book.

The deposition in chief is not to be taken upon written interrogatories, but by relevant questions put *vivâ voce* by the registrar or examiner, and arising out of the circumstances pleaded, but not so put as to lead the witness. If there are several pleas, witnesses

are to be examined on each plea. The witness must not be dismissed until the lapse of twenty-four hours from the time of his production, so that the adverse proctor may have an opportunity to cross-examine him by interrogatories in writing if he think fit; and this time may be extended on reasonable cause to be shown by the proctor through the registrar to the judge. Such interrogatories are to be drawn by the adverse proctor, and, when practicable, settled by counsel. They are then to be copied for and signed by counsel, and delivered to the registrar, with instructions as to the particular interrogatories to be administered to each witness. When the witness has been examined in chief, and also upon interrogatories, if any are to be administered, the depositions in chief, and also the answers to the interrogatories (if any) are to be read over to or by the witness, and signed by him, and he is then to attend with the registrar before the judge or surrogate in chambers, and make a declaration that he knows the contents of his deposition, and that the same are true in virtue of the oath by him taken on his being produced; and an attestation thereof is to be made at the foot of the deposition by the registrar or examiner.

The evidence of the witnesses is in all cases to be kept closely sealed, and the contents thereof are not to be divulged until publication shall have been passed; after which, but not sooner, the proctor administering the interrogatories, if any are administered, is to deliver a copy thereof to the proctor producing the witness.

In the event of any witness refusing to attend to be examined, his necessary expenses having been tendered to him (but not otherwise), a compulsory or subpœna, to be prepared by the registrar, may be extracted, and served on the person so refusing to attend, by showing to him the original instrument under seal, and leaving with him a collated copy thereof; and if he do not appear to this process, an attachment may issue against him for his contempt.

The witnesses for the plaintiff being all examined, his proctor may on the first court-day afterwards pray publication of the evidence, which is to be decreed to take place at a time to be fixed by the judge; and at the expiration of that time, it is imperative on the opposite party to plead if he intends to do so at all; for this purpose he is to attend before the registrar or surrogate, and declare in a minute of court that he intends to offer an allegation or counter-plea, and the same must be brought into court within a reasonable time, to be assigned by the judge. In that case, publication of the evidence taken must be stayed until the allegation be disposed of, either by being admitted or rejected by the court, or by the party abandoning the intention of giving it in. If admitted, publication must be stayed until the whole evidence in the cause be taken. In the event of no allegation or counter-plea being given, or, if given, being rejected by the court, or withdrawn by the party, publication of the evidence is to take place; and thereupon the depositions may be inspected on each side, and copies thereof furnished to the parties at the request of their proctors, who may make copies thereof for their respective counsel.

After the evidence has been inspected, neither party can claim as a matter of right to give any further plea or allegation in the principal cause; but if the judge shall be satisfied by affidavit that there

is any matter important to the issue, which could not have been pleaded before by reason that knowledge thereof had not come to the party prior to, or that the fact had occurred after, the publication, the judge in his discretion may allow such matter to be pleaded.

Allegations exceptive to the testimony of witnesses may be given after publication in cases only where the matter on which they are founded arises out of the evidence of the witness or witnesses excepted to, and where the contradiction, if proved, would tend materially to destroy his or their credit; but no allegation exceptive to the testimony of witnesses is to be admitted, if the facts it contains either have been or could have been pleaded before publication. After publication, no allegation, pleading generally that the witness is not worthy to be believed on his oath, is to be received. Any such allegation, when offered, must precede publication and must plead generally that the witness is of bad character and reputation, and not to be believed on his oath, without imputing to him any specific charges.

When several pleas are given in a cause, witnesses are to be examined on each plea; and all other steps are to be pursued in the same manner as directed in respect of the plaintiff's libel.

It is the duty of the proctors to take especial care that the libel and defensive allegation contain all the facts material to the decision of the cause, so that several pleas may not unnecessarily be given.

When publication shall have taken place on all pleas, the cause is to be set down to be heard at a time to be appointed by the judge. Counsel are to be furnished with copies of all material papers, viz., pleas, exhibits, and depositions of witnesses, but not of warrants, decrees, or other formal instruments, unless from circumstances the contents of such instruments may be material to the discussion of the cause. A case for hearing on each side is to be prepared by the respective proctors, briefly stating the proceedings which have taken place, and calling the attention of counsel to the decree which each party may pray the judge to pronounce. The evidence is not to be abstracted, nor are documents of which counsel are furnished with copies to be more than merely described in the case. All lengthened details are to be avoided, but the attention of counsel is to be directed to the principal points. A reasonable fee is to be paid to counsel on the hearing; and if the case takes more than one day in argument, a moderate additional or refreshing fee is to be given for each subsequent day. Definitive sentences in writing are only requisite in derelict and piratical cases. In other causes the judgment may be given by interlocutory decree, and entered by the registrar in the assignation book.

If it become necessary to enforce a judgment, a monition is to be taken out against the party principal and his bail, and served in the manner before directed in regard to instruments requiring personal service. Upon the return into court of the monition, with a certificate of its due service indorsed thereon, and the tenor thereof not being obeyed, the judge, upon motion of counsel, may decree an attachment against the person of the party monished for his contempt, directing either the attachment to issue immediately, or to be suspended for a reasonable time, as circumstances may in

his judgment require. This attachment is to be extracted from the registry. The previous service of a monition may not always be necessary. Where the disobedience is manifest upon the face of the proceedings, and it is clear that the order of the court must be known to the party, an attachment may be decreed without a previous monition; but in cases where sureties are to be attached, a previous monition is indispensable. Upon compliance with the order for disobedience of which the attachment issued, and upon payment of the costs of the attachment, the marshal, or other person executing it, is to release the party, certifying to the judge fully what has been done; but in cases of doubt he may resort to the judge for directions previous to the release.

§ 14. Proceeding by Act on Petition.

In case bail has been given to the action, a minute is to be made in the assignation book by the registrar, assigning the proctor for the party proceeding to deliver his act on petition to the adverse proctor by a time to be fixed by the judge. The proctor is then to set forth the facts of his case in a plain narrative manner, without argument, and concluding with his prayer. This, having been settled by counsel (for which purpose he is to be furnished with a copy), is to be copied fair for the court, and then delivered to the adverse proctor that he may reply thereto, and, with the reply, it must be returned to the proctor of the party proceeding, that he may make a rejoinder thereto if necessary. The reply and rejoinder must also be settled by counsel in the same manner as the act.

The facts alleged in the act on petition are to be supported by affidavits; and any necessary exhibits, or documents annexed thereto, are to be verified in such affidavits, which are to be confined to the material averments, and are not to be settled by counsel.

Should any delay occur in the delivery of the act from one proctor to the other, either of them may allege the same, in the presence of the registrar, before the judge, who is to direct the act to be returned by a time to be specified; and if it be not returned by that time, or good cause shown for the delay, the judge is to assign to hear the act on petition *ex parte*, that no unnecessary postponement may take place, for which purpose a copy of the act, instead of the original, together with the affidavits on behalf of the party, must be brought in by the proctor applying to have the cause so heard.

When the act is concluded, it is to be signed by both proctors, who are to attend before the judge or surrogate, in the presence of the registrar, to bring in the same together with the original affidavits and exhibits. No further affidavits or documents are to be afterwards received, unless by leave of the judge obtained on special application. The judge is then to appoint the cause for hearing, and thereupon one copy of the affidavits and exhibits is to be made for each of the counsel, and one for the adverse proctor, to be delivered to him when the originals are brought in. The adverse proctor is also to make copies for his own counsel. The same rules, as to the preparing the case for hearing, delivering copies of papers, and fees to counsel, and the same proceedings for enforcing obedience to the decree, are to be observed as in a cause conducted by plea and proof.

§ 15. Suits for Mariner's Wages.

The same regulations as to the arrest of a ship, the subsequent proceeding by default or *in pœnam*, and the rules for conducting a cause by plea and proof, are to be applicable to the suit of a mariner for his wages, which is called a cause of subtraction of wages, in which the mariner may proceed against the ship, freight and master, or the ship and freight, or the owner or the master alone; and any number of mariners, not exceeding six, may proceed jointly in one action.

When an appearance is given, the proctor for the party proceeding is entitled to an assignation on the defendant to bring into court the mariner's contract and ship's books; and he is not compellable to file his libel until they are so brought in.

The libel, if in common form, and pleading no special matter, should state the hiring, rate of wages, performance of service, and the refusal of payment; and should have annexed to it a schedule, stating the whole amount of wages, with the sum received on account, and the balance claimed to be due. This plea is termed a summary petition, and should not be settled by counsel.

§ 16. Suits for Pilotage.

Suits for the recovery of pilotage, where no party appears to defend the action, may be conducted by default or *in pœnam*. When contested, the proceeding will be by plea and proof; the libel or plea, as in suits for wages, if containing no special matter, is also called a summary petition, and need not be settled by counsel.

§ 17. Suits of Bottomry.

These suits may likewise be conducted by default or *in pœnam*, and ships may be sold, in virtue of a decree of the 'court, for the payment of bottomry bonds without any appearance having been given to defend the action.

When the validity of the bond is contested, the cause generally proceeds by act on petition and affidavits, but the party promoting the cause may, if he thinks proper, proceed by plea and proof: and it is competent to the defendant, on his appearance, to require the cause to be conducted in that manner, for which purpose he must pray the judge to assign the promoter to bring in a libel.

Before the warrant is extracted from the registry, the original bond must be exhibited to the registrar in addition to the usual affidavit.

§ 18. Causes of Damage by Collision.

These causes may also be prosecuted by default or *in pœnam*. When defended, the suit is conducted by plea and proof, and differs in no respect from that mode of proceeding already detailed.

Suits of Damage by Beating or Assault on the High Sea.

In these cases the suit is by plea and proof, and the warrant is necessarily against the person.

Prosecutions for Contempt in breach of the Maritime Law, and of the Regulations and Instructions relating to His Majesty's Service at Sea.

These prosecutions can only be instituted on complaint by an Officer in His Majesty's Navy, and under the directions of the Lord High Admiral or the Commissioners, for executing the Office of Lord High Admiral of the United Kingdom, or of some one of the admirals or commanders in chief of the naval squadrons abroad, and are to be conducted in the following manner:—

An affidavit of two persons is to be exhibited by the proctor for the Crown, stating the name and description of the party intending to be proceeded against, and detailing the particulars of the offence committed, which affidavit, with a short case, is to be delivered to the advocate for the Crown to move the judge to decree the warrant of arrest, who, in making the decree, is to specify the amount of the bail to be given as he shall consider sufficient to insure the personal appearance of the party prosecuted when judgment shall be pronounced. This amount is to be stated in the action book and on the face of the warrant. The marshal is then to execute the warrant by the arrest of the person of the offender, who is to be liberated on giving sufficient bail, which is to be taken in the usual manner.

On the appearance being given, the proctor for the Crown is to be assigned to exhibit articles pleading the offence within a short time to be specified by the judge.

These articles are to be prepared by the proctor for the Crown, and may be settled by counsel, and the cause is then to proceed like other suits, by plea and proof, with the following exceptions:—

1st. On the articles or plea being admitted to proof the defendant must be assigned to declare in act of court, within a reasonable time, generally whether he denies the facts pleaded, which is termed giving a negative issue, or whether he confesses them, which is termed giving an affirmative issue.

2ndly. In case of an affirmative issue the judgment of the court may be immediately pronounced; on which occasion the defendant is to be allowed to exhibit affidavits in mitigation of punishment, but not to deny the offence charged.

3rdly. Extended personal answers in writing to the different positions or averments of the articles cannot be required from the defendant.

4thly. Where a negative issue is given the defendant may be at liberty to offer a defensive plea.

After the evidence is taken, if the judge shall decide that the charge is established, he will proceed to give sentence, imposing the fines due by law on the defendant, and condemning him in the costs. In very aggravated cases the defendant may also be imprisoned for a limited time. Affidavits in mitigation may be offered, and are to be received, when the offence has been proved by evidence.

§ 19. Suits for Salvage.

The ordinary course of proceeding is by act on petition, but in cases where no appearance is given, these suits may be prosecuted

by default or *in pœnam*. The property must on no account be released from arrest until a value shall be agreed upon between the parties, and alleged in minute of court, which is to be entered by the registrar in the assignation book.

If the value cannot be agreed upon, a decree of appraisement must be extracted by the proctor for the salvors, and executed and returned into court before the property is released. This constat of the value is necessary both for regulating the amount of bail to be taken, and for guiding the judge at the final hearing in fixing a proper remuneration for the services of the salvors, with reference to the value of the property saved.

§ 20. Causes of Possession.

These causes are to commence by the entry of an action at the suit of the owners or owner of a majority of interest in the ship, and a warrant is to be issued to obtain possession thereof from any party who may withhold the same. No amount of action need be inserted in the action book or on the face of the warrant.

An affidavit of the party proceeding is to be prepared by his proctor, and laid before counsel, with a short case stating the circumstances, in order to move for the warrant, which can be obtained only on motion of counsel. The affidavit need not previously, as in other cases, be left in the registry. On this occasion the judge or surrogate is to be attended by the proctor, counsel, and registrar; and the judge, on reading the affidavit, if it be satisfactory, will, on motion of counsel, decree the warrant citing all persons in general to appear and answer to the party proceeding in a cause of possession. The warrant having been served on the ship, is to be returned into the registry, and if no appearance be given within a month from such return, the judge, if satisfied that the party proceeding has a majority of the legal interest, is, on the affidavit originally brought in, or on further proofs, if necessary, being exhibited on motion of counsel on the next regularly adjourned court-day, by interlocutory decree to order possession of the ship to be delivered to the party proceeding, or if necessary assign a further limited time for entering an appearance, and on any subsequent regularly adjourned court-day, in like manner pronounce his decree, which is issued by the registrar from the registry.

Should any party appear to contest the right of possession, the cause is to proceed by an act on petition and affidavits, the ship remaining in the custody of the court until the final hearing, because the object of the suit, which is to obtain actual possession of the property, cannot otherwise be secured.

Upon an interlocutory decree being pronounced in favor of either party, a decree of possession is to be issued accordingly.

During the dependence of the suit, on proof by affidavit being exhibited that the ship's register is in the possession of any person whomsoever, a monition may be issued requiring him to bring it in, or show cause why it should not be brought into the registry to abide the event of the suit. Or after the hearing, should the ship's register remain in the possession of any person, the judge may, on

proof thereof, issue a monition directing him to deliver up the same to the party in whose favor the decree has been made.

Causes of possession may also be conducted by plea and proof, at the option of either party.

§ 21. Action to obtain Security for the safe Return of a Vessel.

Actions of this description occur when a part owner is dissatisfied with the management of his co-owners, and requires the ship to be restrained from proceeding on a voyage until bail shall be given for her safe return to the port to which she belongs.

An affidavit of the party is first to be made, setting forth the number of shares of which he is the legal owner, that he is dissatisfied with the management of the ship, and is desirous of obtaining bail for her safe return to the port to which she belongs to the amount of the value of his shares, which value is to be stated in the affidavit. And upon this affidavit, which need not previously be left in the registry, the judge or surrogate in chambers is to be moved by counsel to issue the warrant of arrest.

The action should be entered in the amount of the value of the shares of the party proceeding, and in a further moderate sum to cover the costs; and on bail being given, the vessel is to be released and allowed to proceed on her voyage.

In case of the parties differing as to the value of the vessel, she must be appraised under the authority of the court; and the actual value of the shares of the party proceeding at the period of giving bail, whether the ship be appraised or not, is the amount to be recovered in case the bond shall ultimately be pronounced to be forfeited.

The costs of the arrest are to be borne by the party proceeding; and the costs of giving bail by the defendant, unless the judge shall see cause to order otherwise.

In the event of the loss of the vessel before her return to the port to which she belongs (until which time the bail bond remains in force), the party principal and his sureties may be called on by monition to show cause why they should not bring in the amount of their recognizances, in order to abide the judgment of the court. To obtain this monition an affidavit must be exhibited, showing that the bond has become forfeited, and it must be moved for by counsel before the judge or surrogate. The monition, when obtained, requires personal service.

Should an appearance be given and the suit be contested, the proctor of the party proceeding is to be assigned to deliver an act on petition to the adverse proctor, and the cause is then to take the same course as other cases conducted by act on petition.

§ 22. Derelict Cases.

In cases of derelict, the action is to be entered and the warrant extracted by the proctor for the Admiralty, without any amount of action being stated in the action book or on the warrant, and no

affidavit is necessary to obtain the warrant, which, when issued, is to be served by affixing it for a short time on the ship or goods found derelict, and by leaving thereon affixed a true copy thereof. The warrant is then to be returned by the proctor into the registry.

After the lapse of three months from the return of the warrant (the property remaining in the custody of the court), the judge, on the next regularly adjourned court-day, at the petition of the proctor, and on his allegation in court that the warrant has been returned upwards of three months, and that no appearance has been given, is to decree a monition to issue, calling upon all persons to appear and show cause why the property should not be condemned, at the expiration of a year and a day from the return of the warrant, as droits and perquisites of His Majesty in his office of Admiralty. The monition is to be made returnable at three months after its date, and is to be served by affixing the original for a short time either on the court-house or on the exchange, or place of common resort of merchants, or as the usage of the colony or settlement may be, and by leaving thereon affixed a true copy thereof. The object of this general service is to give the utmost publicity, so that the contents of the monition may be most likely to reach the knowledge of all parties interested. After this service, the monition is to be returned into the registry, with a certificate of service indorsed thereon.

If the property be in a perishable condition, and the judge be satisfied by affidavit at any period after the arrest that it would be for the benefit of all parties interested therein that the same should be forthwith sold, it may be appraised and sold under the direction and authority of the court, and the proceeds paid into the registry.

At the expiration of a year and a day from the return of the warrant, if no claim or appearance be given for the owners, the judge, on the next regularly adjourned court-day, is to proceed to condemn by sentence the property as droits and perquisites of His Majesty in his office of Admiralty. The sentence is to be prepared by the proctor, who is to make a fair copy thereof for the judge's signature, which is to be signed in court in the presence of the registrar, and a certificate is to be added by the registrar on the sentence, and a minute made in the assignation book of the same having been so signed.

The owners of property proceeded against as derelict may appear at any time before the termination of the cause and claim the same without being liable to any fees of contumacy incurred prior to their appearance. The claim, with an affidavit in verification thereof, is to be drawn by the proctor, and should set forth the name, residence, and occupation of the owner, the title of the party to, and the identity of, the ship or goods claimed. Documents or exhibits in support of the affidavit may be annexed thereto. When the claim and affidavit have been settled by counsel, the proctor is to attend his party before the judge or surrogate, to be sworn to the same in the presence of the registrar, and the judge will then assign to hear on admission thereof on the next court-day, or at any other time to be by him fixed, of which notice is to be given to the parties. A copy of the affidavit and claim is to be given to the proctor for the Crown, and if the counsel for the Crown be satisfied that the party claiming is entitled to restitution of the property, he

is to consent to the same being restored, which on motion of counsel before the judge, may be immediately done on payment of the salvage, and the expenses on behalf of the Crown. The instrument of restitution is to be prepared by the registrar, and extracted from the registry by the proctor for the claimant. The interests of salvors are always to be protected, and to this end, if restitution be consented to, and if salvage has not been previously paid, bail to our Sovereign Lord the King, in his office of Admiralty, in a sum sufficient to answer salvage, must be given by two persons on behalf of the owners before the instrument of restitution is to be issued.

If the title to the property is contested, the cause must come on to be heard in court; a case and papers being delivered to counsel as in other contested causes.

§ 23. Prosecutions against the Ships and Goods of Pirates.

On a ship or goods taken from the possession of pirates being brought into port, it is the duty of the proctor for the Crown to prepare an affidavit, to be made by some of the seizers, detailing the circumstances of the seizure, and he is then to enter an action against the property as in derelict cases. The warrant of arrest is then to be decreed by the judge or surrogate on the motion of the advocate for the Crown. The warrant being extracted, is to be served on the property, and returned into the registry, with a certificate of service thereof; and if no appearance be given, the suit is to proceed in a similar manner in every respect as in a case of derelict. At the expiration of a year and a day from the return of the warrant, if there be no appearance or claim, the judge, on the next regularly adjourned court-day, is to condemn the property by sentence, as droits and perquisites of His Majesty in his office of Admiralty, upon the affidavit originally brought in, and without further evidence.

If an appearance be entered or claim given on behalf of the persons from whose possession the property may have been seized, a libel is to be filed on behalf of the Crown, detailing all the circumstances. And if any of the persons from whose possession the property may have been seized have been convicted of piracy, such conviction is to be pleaded, and an official copy of the record thereof annexed to the libel. The case is then to proceed as by plea and proof.

If an appearance on the part of the original owners of the ship or goods seized be given, a claim and affidavit are to be prepared, as in derelict cases, to which may be annexed any documents or exhibits necessary to establish the identity and ownership of the property. Copies of the claim and affidavit, when brought into court, must be furnished to the proctor for the Crown; and should the counsel for the Crown be satisfied of the proof and identity of the property, he is to consent to restitution thereof, on payment of salvage and the expenses on behalf of His Majesty in his office of Admiralty.

By the Statute 6 Geo. IV., cap. 49, the salvage due on British property retaken from pirates is, as in prize recaptures, fixed at one-eighth of the value, and in practice this one-eighth is calculated

in the High Court of Admiralty of England after the expenses on *both sides* are deducted. The same practice is to prevail in Vice-Admiralty courts.

§ 24. Bounty Money upon the Capture of Piratical Vessels.

By the before-mentioned Statute, 6 Geo. IV., c. 49, the commanders, officers, and crews of His Majesty's ships of war are entitled to certain bounties on the capture or destruction of vessels and boats manned by pirates or by persons engaged in acts of piracy.

The proceeding to be taken on this occasion is wholly separate and distinct from that of obtaining the confiscation of a ship or goods, and is as follows:—

1st. An affidavit is to be prepared detailing all the circumstances of the capture or destruction of the piratical vessel or boat, and setting forth, as correctly as can be, the number of men on board thereof at the commencement of the attack, and distinguishing the numbers of those killed during the attack, as well as of those taken and secured. This affidavit is to be made by the officer in command of the capturing vessel at the time of the capture or destruction of the pirate vessel, and by one or more other persons present thereat. If any papers have been found on board the pirate vessel, they should be annexed to the affidavit and verified therein, or if any such have been destroyed, the fact of their destruction should be stated in the affidavit.

2ndly. A petition is then to be prepared, detailing briefly the facts stated in the affidavit, praying the decision of the court, which affidavit and petition are to be deposited with the registrar, and by him delivered to the judge, preparatory to the hearing, without any previous warrant, monition, or other process; and counsel, being furnished with copies of the affidavit and petition, is to move the court to pronounce as prayed.

§ 25. Prosecutions for a Breach of the Laws for the Abolition of the Slave Trade.

Foreign slave vessels cannot be detained at sea except for violation of treaty, and then only by such of His Majesty's ships of war as are provided with special instructions for that purpose; nor can the search of any such foreign slave vessel be made by any officer holding a rank inferior to that of Lieutenant in the navy of Great Britain.

With respect to these seizures of foreign slave vessels, the Vice-Admiralty courts have no jurisdiction. The only tribunals which can legally adjudicate thereon are the "Mixed Commission Courts," established in pursuance of treaties with certain foreign powers.

When a vessel engaged in the slave trade is seized for a violation of the municipal law of the United Kingdom of Great Britain and Ireland, it is the duty of the captor to send her with the slaves, if any on board, for the purpose of adjudication, to the nearest and most convenient port in any colony or settlement where there is a Vice-Admiralty court.

Upon the arrival in port of the vessel and slaves seized, and also in a case of a seizure of slaves on shore, an immediate representation

of the seizure is to be made to the registrar of the Court of Vice-Admiralty, and the seizer is to make an affidavit, detailing all the circumstances connected therewith, and stating especially by what breach of the law the forfeiture of the slaves has been incurred. And, in the case of the seizure of a vessel, there are to be annexed to the affidavit, and verified therein, all original papers that may have been delivered up to the seizer, or, if the ship's papers shall have been concealed, thrown overboard, or otherwise destroyed, that fact is to be stated in the affidavit.

The affidavit being duly sworn and exhibited before the judge or surrogate, he is to decree a monition to issue, returnable fourteen days after service, citing by name the owners or persons implicated, if known, and all others in general, to appear and show cause why the forfeiture should not be decreed and the penalties pronounced for.

Where the owners or persons implicated are not known, the monition must only cite all persons in general. If the monition contain the names of the owners or others, from whom penalties are sought to be recovered, it should be personally served on the parties in the manner of other instruments requiring personal service. In all cases the monition must be served on the exchange or the court-house, or other public place, as before directed in derelict cases. If the monition issue against all persons in general, and not against any individual in particular, it need only be served in the manner last mentioned.

If, when the monition has been served, no appearance be given, the judge, upon the return of the monition, is, immediately or on the next regularly adjourned court-day, to proceed to pronounce, by interlocutory decree, for the forfeiture of the slaves and the vessel (if any), and for the penalties due by law, without requiring any further evidence.

If it shall appear to the judge, by affidavit, that personal service cannot be effected on the parties, if any, named in the monition, by reason that they have purposely absented themselves to avoid service, the judge is to pronounce his decree; but if he has reason to believe that the parties are *bonâ fide* ignorant thereof, he ought to reserve his judgment, so far as relates to the penalties sued for, and also as to the slaves and vessel, if any doubt shall arise upon the evidence.

In the case of a monition citing all persons in general, and not describing any person by name, no penalties against individuals can be pronounced for; but if the persons by whom the offence has been committed shall afterwards be discovered, a subsequent monition may issue in the same suit against him or them for recovery of the penalties.

In order to move for the interlocutory decree, a case, together with a copy of the affidavit, must be placed in the hands of counsel as in other cases.

At any time before the interlocutory decree, a claim may be given on behalf of the owners, and the claimant may, if he think fit, require the seizer to proceed by plea and proof, and pray him to

be assigned to give in his information or libel, to which the claimant may give in a responsive plea or allegation.

To the claim must be annexed an affidavit, containing the names, additions, and residence of the owners, and a detail of all the circumstances on which the claimant means to rely as the ground of his defence. The same course in all respects is to be pursued in giving in the claim as before directed in derelict cases.

When a claim is given and no libel prayed, the court may proceed to adjudge the case on the facts and circumstances stated in the affidavit of the seizer exhibited on praying the monition, and in the claim and affidavit in support thereof.

Should the judge consider the case not sufficiently proved by such evidence, to enable him to proceed to sentence, he may direct a libel to be filed by the seizer, and witnesses to be examined thereon, to which libel the claimant's proctor may give a responsive plea or allegation, and in like manner examine witnesses. The proceedings will then be the same as directed in cases contested by plea and proof.

In the event of the judge not in the first instance condemning or restoring the slaves, he is required in certain cases, by the Act 5 Geo. IV., chap. 113, to order them to be valued, and, upon the valuation being approved by the court, they are to be delivered over pursuant to the Act to persons specially appointed to receive, protect, and provide for them. The same course is to be followed when a decree restoring or condemning slaves is suspended by appeal. And in no case whatever are slaves to be delivered to claimants on bail, to answer the adjudication.

Where a seizure of several slaves belonging to the same owner, is made by the same seizer for one and the same cause of forfeiture, there is to be only one affidavit and one monition required to enable the court to proceed.

Where several slaves, whether belonging to the same or different owners, are seized for the same cause of forfeiture, but by different seizers, there must be a separate affidavit by each seizer, but the slaves may all be included in one monition.

Where several slaves belonging to the same or to different owners are seized by the same seizer, or by different seizers, for different causes of forfeiture, there must be as many affidavits and monitions as there are different causes of forfeiture; but the judge may afterwards at his discretion consolidate the proceedings, so as to form but one suit to come before the court for hearing.

Care is to be taken, in consolidated proceedings, that the monition, and also the libel when that proceeding is required, be drawn conformably with the several circumstances, and that the different seizures be described in separate articles or counts of the libel or information.

In order to avoid the injury which owners may sustain by the delay of the seizer to proceed, any claimant or owner may apply to the court for a monition against the seizer, returnable in three days after service, requiring him immediately to proceed to the adjudication of any slave or slaves so claimed.

§ 26. PROCEEDINGS IN THE CASE OF THE ILL-TREATMENT OF SLAVES APPRENTICED, COGNIZABLE IN THE COURTS OF VICE-ADMIRALTY, PURSUANT TO THE 24TH SECTION OF 5 GEO. IV., CAP. 113.

When any such case occurs, the judge, upon complaint being preferred to him, is to cause the substance thereof to be reduced to writing, to the truth of which the complainant is to be sworn, and the judge is then to issue a summons to be served by the marshal upon the person complained against; and in case the accused appears, and the judge, on hearing the complaint on the oath of the complainant and of the witnesses (if any) in support thereof, and also the accused and his witnesses (if any), should be of opinion that the charge is established, or if the party accused shall not appear, the judge, being satisfied that the summons has been duly served and the complaint well founded, is to proceed to carry the provisions of the Act into execution.

§ 27. PROSECUTIONS FOR BREACH OF THE REVENUE OR NAVIGATION LAWS.

An affidavit is to be made by the seizer, detailing the grounds of the seizure and the circumstances attending the same, to which, in the case of a vessel being seized, is to be annexed all original papers that have been delivered up at the time of seizure, and which must be verified in the affidavit. Or if the ship's papers have been concealed, thrown overboard, or destroyed, the fact of such concealment or destruction should be stated in the affidavit.

The affidavit is to be exhibited to the judge or surrogate, who is to decree a monition to issue, returnable fourteen days after service, citing by name the owners or persons implicated (if known) in special, and all others in general, to appear and show cause why the forfeiture should not be decreed, and the penalties due by law pronounced for; but where the parties are not known the monition must only cite all persons in general.

When the monition specifies the names of the parties cited, it must be personally served on them like other instruments requiring personal service, and must also, like other monitions where the names of parties are not mentioned, be served on the exchange, or court-house, or other public place, as before directed respecting instruments requiring service against all persons in general.

The monition having been served, and no appearance being given, the judge is to proceed by interlocutory decree to condemn the property; but such condemnation is not to take place on any other than a regularly adjourned court-day, and not until the expiration of fourteen days from the return of the monition; and if it has been personally served, the judge may, without requiring any further evidence than the affidavit to lead the monition, pronounce for the penalties due by law.

If a personal service of the monition cannot be effected by reason that the persons named therein have purposely absented themselves to avoid the service, the judge may pronounce a similar decree; but if he has reason to believe that the persons named in the monition are *bonâ fide* ignorant thereof, he is to reserve his

judgment so far as relates to the penalties sued for, and also as to the property, should any doubt arise upon the evidence.

In the case of a monition citing all persons in general, and not describing any person by name, no penalties can be pronounced for; but if the persons by whom the offence was committed shall afterwards be discovered, a subsequent monition may be issued in the same suit against him or them for recovery of the penalties.

In order to move for the interlocutory decree, a case, with a copy of the affidavit must be delivered to counsel.

A claim may be given on behalf of the owners at any time before the interlocutory decree, and the claimant may, if he think fit, require the seizer to file an information or libel to which the claimant may give in a responsive plea or allegation, and the case will then proceed by plea and proof in the manner before mentioned.

To the claim must be annexed an affidavit, containing the names, descriptions, and residence of the owners, and a detail of all the circumstances on which the claimant means to rely as the grounds of his defence.

The claim and affidavit are to be prepared and given in as directed in derelict cases; but in compliance with the Act 6 Geo. IV., cap. 114, sec. 62, security must be given on behalf of the claimant in the sum of £60 sterling to answer costs before any claim can be received.

Upon a claim being filed, the judge, with the consent of the Collector and Comptroller of the Customs, may order the delivery of the property to the claimant, on his giving bond, with two sufficient sureties, to answer double the value of the same, as provided by the 58th section of the said Act.

The court, on the application of the officer of the Customs, or parties interested, may, at any time before condemnation, direct the property to be sold, if it shall satisfactorily appear by affidavit that a sale will be beneficial to all parties interested.

When a claim is given, and no libel prayed, the court may proceed to adjudge the case upon the facts and circumstances stated in the affidavits on both sides; but if it shall appear to the judge that the case is not sufficiently proved by such evidence, he may direct an information or libel to be filed by the seizer, and give leave to the claimant to file a responsive allegation; in which case witnesses are to be examined on both sides, and the cause will proceed as in plea and proof cases. After condemnation, the sale must take place according to the provisions of the 56th section of the said Act.

In order to remedy complaints which have been made of the burthensome law charges in the colonies on proceedings in revenue cases of small value, it is directed, that any number of seizures, not exceeding in the aggregate value £300, and not individually exceeding the sum of £100, may be included in one monition, and that different seizing officers may proceed conjointly in the same prosecution,—care being taken that the monition, and also the libel where that proceeding is required, be drawn conformably with the several

circumstances, and that the different seizures be described in separate articles or counts of the libel or information. And to obviate any possible delay in the proceedings of the seizing officer, any claimant is to be at liberty to take out a monition against the seizer, returnable three days after service thereof, requiring him immediately to proceed to the adjudication of the property seized. For this purpose, and also to enable the seizer to determine whether to proceed separately as to one seizure, or to wait for the chance of including other seizures in the same process, by a consideration of the expenses of warehousing and custody of the seizure, the seizer is without delay, in all cases where the probable amount of the seizure does not exceed in value £100, to report the facts to the registrar of the court.

In cases where it shall be deemed necessary to proceed immediately without waiting for other seizures, and the value is under £100, the several charges of the proceeding and adjudication are to be reduced £25 per cent. upon the usual charges; and if the property separately proceeded against does not exceed the value of £50, one-half of the usual fees only are to be charged.

§ 28. General Rules to be observed in Practice.

Subduction of an Action.

If a party proceeding determine to abandon his suit, or has compromised the same, he may at any period be allowed to subduct the action; to which end the proctor who has extracted the warrant is to sign a short entry to that effect in the action book, and the property, if any have been arrested, is to be immediately released.

§ 29. Tender.

Whenever a tender is made on behalf of a defendant to pay a certain sum of money, the sum tendered must be brought into the registry, and an undertaking given for payment of the costs incurred up to that time; this must be done before the judge or surrogate, in the presence of the registrar and the adverse proctor, and a minute thereof is to be entered in the assignation book, and the proctor for the plaintiff is to be assigned to declare whether he will accept the tender or not, within a time to be limited by the judge.

If the tender be refused, and the court shall ultimately consider the same to have been sufficient, the plaintiff, in general cases, is to be subject to all the costs incurred subsequent to the refusal, but under special circumstances, where the enforcement of this rule may be attended with injustice or hardship, the court may exercise its discretion by forbearing to condemn him in costs.

§ 30. References.

In cases where a reference of the subject in litigation may be expedient, the judge, either for his own satisfaction, or at the instance of either of the parties, may refer any accounts or demands, or any matter incidental thereto, to the registrar, directing him to take to his assistance one or two merchants, and to investigate and

report on the matter,—the merchants to be selected by the registrar and approved by the judge.

The reference being ordered, the registrar is forthwith to make an appointment with the proctors of the parties, and with the assisting merchant or merchants, and all necessary documents being produced, the registrar and merchants are to hear the matters in dispute discussed by the proctors and the parties principal, or their agents. The registrar is afterwards to draw up the result of the investigation, and of their joint deliberation thereon, in a written report, to be brought into court, and a minute to that effect is to be thereupon made in the assignation book.

The judge is to direct the report to be confirmed, unless objected to by either party by the succeeding adjourned court-day, or within a time to be limited by him. The report may be confirmed at the prayer of either of the proctors, and either may object to the report wholly or in part; but the party objecting must so declare in act of court, and is to be assigned by the judge to deliver in an act on petition, setting forth his objections to the adverse proctor, within a time to be limited. And the subsequent proceedings are then to be conducted as on all other acts on petition.

§ 31. Taxation of Costs.(a)

The proctor of the party who has obtained a decree or order condemning another party in the costs, is to furnish the adverse proctor, and the registrar each with a copy of his bill, and to attend the registrar to procure an appointment to tax the same, of which notice is to be given to the adverse proctor, that he may be present thereat; and if he shall decline or neglect to attend, the taxation may proceed in his absence upon an affidavit being exhibited to and filed with the registrar, showing that a copy of the bill had been furnished, and that twenty-four hours' previous notice of the appointment had been given to him.

If the amount of the costs ascertained by the registrar be not forthwith paid, the registrar is to report the amount to the court, when, if no objection be made, the judge is to sign the bill, which completes the taxation, and a minute thereof is to be entered in the assignation book.

If the adverse proctor be dissatisfied with the amount proposed to be allowed, he is, on the same being reported and before the bill is signed by the judge, so to declare in court; and in that case the judge is to assign him to deliver an act on petition in objection to the taxation within a short time to be specified, and subsequently the same course is to be pursued as in other acts on petition.

When the judge has signed the bill, whether as originally reported by the registrar, or with any subsequent alteration, he is to decree a monition for payment thereof; and if the costs be not immediately paid, such monition may be extracted and served as usual, and may be followed up by attachment, if necessary.

(a) Where the full costs are not given —where the promoter, although successful on the whole, is not entitled to all his costs—a sum is allowed *nomine expensarum*. It is no objection to the allowance of costs that the promoter failed in some of his issues.—*The Albion*, 4 A.J.R., 9.

§ 32. Incidental Monitions.

In any cause, however commenced, monitions may incidentally become necessary, which are to be made returnable at a period to be fixed by the judge; and if the tenor of the monition be not complied with, the judge, on proof that it has been duly served, may enforce obedience thereto by attachment.(a)

§ 33. Commissions.

Commissions to take bail, to take the answers of parties to a libel or allegation, to take the oaths of parties or others to affidavits, to examine witnesses, and the like, may, under the authority and at the discretion of the judge, issue in cases where the parties reside at so great a distance that the transaction of the business by commission will be attended with less expense than their personal appearance before the court.

Commissions may also issue for the unlivery of a cargo, for the appraisement or sale of a ship or cargo, or for the appraisement and sale of a ship and cargo in cases when, by reason of the distance, the marshal cannot be conveniently employed for the purpose without great expense.

All commissions are to be directed to respectable merchants, or professional men named by the proctors; and when they can agree thereto one commissioner will be sufficient, otherwise a commissioner is to be nominated by each party.

§ 34. Acts on Petition.

In cases where any incidental matter may become the subject of dispute, and either of the parties shall desire it, or if the judge shall deem it necessary for his own satisfaction to have the facts further elucidated, he may direct the circumstances to be set forth in an act on petition.

§ 35. Appeals.

All appeals from decrees of the Vice-Admiralty courts are to be asserted by a party in the suit within fifteen days after the date of the decree, which is to be done by the proctor declaring the same in court; and a minute thereof is to be entered in the assignation book. And the party must also give bail, within fifteen days from the assertion of the appeal, in the sum of £100 sterling, to answer the costs of such appeal.

In all cases, however, in which an appeal is asserted, except respecting slaves, the judge may proceed to carry his sentence into execution provided the party in whose favor the decree has been made give bail to abide the event of the appeal, by two sureties in the amount of the value of the property or subject in dispute, together with the further sum of £100 sterling to answer costs, in the event of the same being awarded by the superior court.

(a) An attachment for non-payment of costs is not a step in the cause, but a proceeding *in personam*; and is not therefore to be dissolved because not made on a court-day.—"*The Condor*," 5 A.J.R., 93.

The party appealing, having complied with these regulations, is then to cause the judge and registrar to be served with an inhibition from the High Court of Admiralty, restraining them from further proceeding in the cause, and also with a monition to transmit the process.

This process will consist of a fair copy of the proceedings under the seal of the Vice-Admiralty Court, to be made and signed by the registrar, at the expense of the party ordering the same, which is to be transmitted to the superior court pursuant to the monition.

The proceeds, if in court, or in the hands of any individual, must, on a special monition for that purpose being served, be remitted to the registrar of the High Court of Admiralty or Court of Appeal.

§ 36. Regulations as to Sittings of the Court.

Before the rising of the court, the judge is always to adjourn the same to a day to be by him fixed at his discretion, and proclamation thereof is thereupon to be made in open court by the marshal or officer of the court. It is, however, competent to the judge, notwithstanding such adjournment, subsequently to appoint any intermediate day or days, as may appear to him to be necessary, for the expediting any particular cause or causes before the court.

Forty-eight hours' notice of such intermediate court-days must always be published in the *Gazette*, or public newspaper of the colony by the registrar, at the expense of the party at whose instance, or for whose benefit, the court is to be so called, which expense is to be paid by his proctor.

Care is always to be taken that on such intermediate court-days, no assignation be sped, or order made, precluding the right, or to the manifest injury, of any absent party, when it shall appear that he cannot have received sufficient notice of the sitting of the court; and absent parties are always to be entitled to the favorable consideration of the judge, if, on the next succeeding regularly adjourned court-day, cause shall be shown why an assignation made on any intermediate court-day had not been complied with.

In like manner, when an assignation has been made for an act to be done by a limited time, shall not have been duly complied with, and an intermediate court-day shall be subsequently held, parties who cannot by possibility have been cognizant of such intermediate court, and who may have very conclusive reasons to allege why they have been unable to comply with such assignation, are not to be prejudiced by the enforcement of the same on such intermediate court-day.

§ 37. As to the Return and Service of Warrants, Monitions, and other Instruments.

In general cases, warrants, monitions, and other instruments, are to be made returnable, and parties cited to appear at the registry, either on a certain day mentioned, or at the expiration of a certain number of days after service, to be specified in the instrument, and between any two hours of the day most usually appropriated to public business.

Monitions to pay costs or a sum of money, or to do any specific act within a certain number of days, are to be returnable at the expiration of the usual hours of business at the registry, on the furthest or last day assigned to the party to do the act.

If no appearance be given thereto, the registrar is, immediately on the expiration of the time specified, to attend before the judge or surrogate in court or chambers, with the proctor who is to return the instrument; and the proceedings are subsequently to be continued according to the requisites of the cause. The day of such return is the period from which is to be reckoned, for all future purposes, the contumacy or default of the party cited and not appearing.

Instruments against all persons in general, and which are served only on the ship or goods, or on the exchange, or principal resort of merchants, or on the court-house, can only be further proceeded on *in pœnam* on the regularly adjourned court-days. But an instrument which has been personally served and duly returned may be followed up by all further proceedings, even to attachment, without more regard to the regularly adjourned court-days than would be necessary respecting any other incident in the proceedings, because in such cases the party who has been served must always be aware of the liabilities to which he is exposed by his own laches, or contempt.

If an instrument be served on a ship, or goods laden on board a ship, when the master is on board, and the action be one to which he ought to appear and become a defendant, such service may, for the purpose of future proceedings, be considered equivalent to a personal service on him.

Whenever any monition or other instrument is served by any other person than the marshal, the certificate of the service thereof must be verified by an affidavit of the person serving the same.

All warrants, monitions, and other instruments requiring ulterior proceedings *in pœnam*, in case of no appearance or of non-obedience, must be duly returned at the time specified for their return; and if not then duly returned, no further proceedings can be had thereon.

§ 38. Interlocutory Decree.

The interlocutory decree, which must always be moved by counsel, is the final act of adjudication in the principal cause of action in any suit. But in some few instances a suit may be terminated without it, viz.:—

Where a libel is rejected.

Where a defendant is dismissed because the promoter does not bring in his libel.

Where a protest is pronounced for, and the party appearing under protest is dismissed.

Where an action is subducted.

If sureties apply to be dismissed from their recognizances, it must be done by interlocutory decree; but if they are dismissed by

the interlocutory decree in the principal cause, no further decree of that kind is necessary for their dismissal.

The fees due to the judge and officers on an interlocutory decree are chargeable to all parties who receive benefit under the same; thus, in a cause of derelict, the fees are chargeable to the claimant who obtains restitution of the property, and to the salvors to whom salvage may be awarded.

No decree is to be made, nor act of court be sped, by the judge or surrogate, without the presence of the registrar, by whom a minute or record thereof must be made and attested, except only in case of the registrar's unavoidable absence, on which occasion the judge or surrogate may assume an actuary to attest *pro hac vice* the act to be done. Any practitioner of the court, provided he be not concerned in the suit in which the act is to be done, may perform this part of the registrar's duty, attesting by his signature the entry of the act in the assignation book.

§ 39. Monitions.

If a monition be not decreed at the time an interlocutory decree is made, it may, at the petition of the proctor on either side, be decreed on any court-day afterwards.

No monition to pay costs can be extracted until after such costs shall have been regularly taxed by the court.

§ 40. Proxies.

Although proxies are not usually exhibited in maritime suits, yet they may sometimes be required, in order to prevent proctors from proceeding in causes on instructions from parties not being themselves entitled to intervene, or not having a legal *personæ standi* to prosecute a cause.

§ 41. Other General Rules.

Upon the execution of commissions to take bail, the sureties must always justify their sufficiency before the commissioners, by being sworn to an affidavit, to be drawn by the registrar and annexed to the commission; and when bail is not taken by commission, and the court orders the sureties to justify, a similar affidavit must be made.

When a cargo has been delivered to the consignee, and he has not paid the freight, or when freight has been paid, and is in the possession of the owner of the ship, master, broker, or any other person, such freight may be arrested by service of a warrant upon the consignee or the person in whose hands the freight remains.

The same course is to be pursued when, under similar circumstances, a monition is to be served to bring the freight into the registry.

All commissions of unlivery, of appraisement, and of appraisement and sale, are to be extracted by the proctor for the plaintiff or promoter in the cause.

In those courts in which it may be necessary that the same individual should act as advocate and proctor, he may elect in which of the two capacities his fee, in those instances where the duties are necessarily exercised together, shall be charged, and the practitioner is in no instance to be allowed to receive fees for the same business in both capacities, nor to take a fee as counsel where the act of a proctor only is necessary. The same rule will apply to the fee specified in the table for a consultation in any intermediate stage of the proceeding, should a "necessity arise to resort to counsel for advice;" but an advocate's fee for consultation is not to be charged on any occasion where a reference to counsel would not have been necessary. The practitioner in such cases is only to be entitled to the fee for consultation as a proctor.

If the practitioner charges the advocate's fee for motion necessarily made by counsel before the judge in the progress of the cause, he is not to charge or be allowed the proctor's fee for attending such motion, and where he charges the advocate's fee "for the hearing," he is not also to charge or be allowed the proctor's fee "for attending informations on the final hearing;" nor is he in any case, when acting as counsel in the cause, to charge the proctor's fee for attendance to fee counsel.

In the case of the charges for drawing, and the fee for settling any plea, affidavit, interrogatories, answers, and the like, the practitioner acting in both capacities is not to be entitled to the full fee for drawing, and to charge a copy to settle, and also a fee for settling the same; but may be allowed, instead thereof, to charge such fee as the table prescribes for the advocate on settling, and also a moiety of the charges allowed by the table to the proctor for drawing and copying.

It being provided by the fifth section of the Act, under the authority of which these regulations are established, that persons feeling themselves aggrieved by the allowance of any charges made by any officers or practitioners in the said Vice-Admiralty courts as not warranted by the established tables of fees, may have such charges retaxed by the authority of the High Court of Admiralty of England, upon summary application thereto.

It is requisite, when such applications are intended to be made to that court, that a set of the copies of all papers previously made out and used in the proceedings upon which the charges objected to have arisen, or so many of them as may be necessary to explain or support the disputed charges, be transmitted to England; or if such copies cannot be transmitted without incurring an expense disproportionate to the object, it will be sufficient, as a substitute for the same, that an affidavit be made stating summarily the nature of the proceedings and the decree in the cause, a description of the different papers and the number of folios contained in each of them, and such facts or circumstances as will explain the nature of the cause and the charges objected to; which affidavit is to be filed in the registry of the Vice-Admiralty Court, to give the officer or practitioner whose charges may be objected to an opportunity of replying thereto, which he should do within a period not exceeding fourteen days, to be limited by the judge, who is then to order the costs

already taxed to be referred for revision to the High Court of Admiralty, with copies of the affidavits. But, previous to any such order of reference being made, the party complaining must pay to the adverse proctor such part of the allowed charges as is not objected to, and must bring the remainder into the registry of the Vice-Admiralty Court, to abide the decision of the High Court of Admiralty.

NOTE.—*The foregoing Rules and Regulations touching the practice and proceedings in the several Courts of Vice-Admiralty Abroad are extracted from a Report addressed to the Lords Commissioners of His Majesty's Treasury, drawn up and signed by*

JAMES FARQUHAR,
H. B. SWABEY,
WILLIAM ROTHERY,

and perused and approved by

HERBERT JENNER,
JOHN DODSON,
STEPHEN LUSHINGTON.

And the whole, together with the Table of Fees for the respective Colonies (regulated and approved by the same persons), were submitted to and approved by the Right Honourable Sir CHRISTOPHER ROBINSON, *Judge of the High Court of Admiralty.*

ADDITIONAL RULES AND REGULATIONS

FOR THE SEVERAL

COURTS OF VICE-ADMIRALTY ABROAD.

ESTABLISHED BY HER MAJESTY'S ORDER IN COUNCIL BEARING DATE

THE 6TH DAY OF JULY 1859.

ADDITIONAL RULES AND REGULATIONS.

Preliminary acts in damage causes.

I. In all cases of damage, unless the judge shall be pleased otherwise to direct, each party or his proctor shall, before the libel or act on petition is given in, bring into and deposit in court a sealed packet containing a statement of the following particulars :—

1. The names of the two vessels which came into collision, and the names of their respective masters.
2. The time of the collision as nearly as can be stated.
3. The place of the collision.
4. The direction of the wind.
5. The state of the weather.
6. The courses of the respective vessels on first sighting each other.
7. The distance at which the other vessel was first seen.
8. The steps taken to avoid the collision.
9. The parts of each vessel which first came in contact.

And such packets shall remain in the registry sealed up, and shall not be opened save with the permission of the judge, until the proofs in the cause are brought in, or the whole of the pleadings and evidence are concluded, and such statements shall be called the "Preliminary Acts," and may be in the form of the Schedule hereto annexed, marked A.

Cause may be heard on preliminary acts and evidence.

II. It shall be competent to the court, if it shall think fit so to do, and if the parties in the cause consent thereto, to direct the evidence to be taken upon the preliminary acts, and without its being necessary to bring in any further pleadings in the cause.

III. In proceedings by act on petition, the proctor by whom the act is to be commenced shall, on an appearance being given to the action, be assigned to bring in his act on petition by a time to be then fixed by the judge or his surrogate ; and on his bringing in the same he shall deliver a copy thereof to the adverse proctor, who shall thereupon be assigned to bring in his answer thereto by such further time as may be then fixed by the judge or surrogate, and on the answer or any subsequent writing to the act being brought in, the proctor bringing in the same shall deliver a copy thereof to the adverse proctor, and a similar assignation shall be made on the adverse proctor to bring in his reply thereto. And when both proctors decline to write further to the act, a conclusion (form of which is hereunto annexed, marked B), shall be brought in signed by both the proctors, and, on the proofs being given in, the cause shall be assigned for hearing.

Court may dismiss cause or conclude act, if assignation not complied with.

IV. In the event of a proctor not complying with the assignation made upon him to bring in his act on petition within the time specified for such purpose, the court may dismiss the cause. And

if after the act on petition shall have been given in, either proctor shall fail to comply with any assignation made upon him to bring in any subsequent writing to the act, the court may conclude the act, and assign the proctors to bring in their proofs within a time to be then fixed, in order that the cause may be set down for hearing.

Proceedings by plea and proof.

V. In proceedings by plea and proof, upon a libel or allegation being given in, an assignation shall be made upon the adverse proctor to bring in his allegation responsive thereto, on some day to be then fixed by the judge or surrogate, and the libel or allegation so given in as aforesaid shall stand admitted, unless the adverse proctor shall within four days from the giving in of the same declare in acts of court that he opposes the admissibility thereof.

Witnesses not to be examined until pleadings concluded.

VI. No witness shall be examined on any plea until after the pleadings in the cause have been concluded, except with the permission of the court, and upon good cause shown.

Examination of witnesses.

VII. The witnesses may be examined in one or other of the following methods :—

1. *Vivâ voce* in open court.
2. By the registrar or an examiner of the court in chambers.
3. By a commissioner specially appointed by virtue of a commission to be issued under seal of the court, form of which is hereto annexed, marked C.

Examination in open court.

VIII. When the witnesses are to be examined in open court, a list of the witnesses to be examined by each party is to be given to the adverse proctor, forty-eight hours before the time appointed for their examination, provided that nothing herein contained shall prevent the immediate examination of the witnesses, if both parties in the cause consent thereto, and the court shall think fit to order it.

Witnesses whether previously examined or not may be summoned to give evidence *viva voce*

IX. It shall be competent to the court to summon and examine before it any witnesses, whether the proceedings shall have been by act on petition or by plea and proof, and whether the witnesses shall or shall not have previously made affidavits or given evidence in the cause.

Proctors may be present at the examination in chambers.

X. In any examination by the registrar or an examiner, or a commissioner specially appointed, the proctors in the cause, or their substitutes, may, unless the judge shall order to the contrary, be present ; but the evidence, as well in chief as upon interrogatories, shall be taken down in writing by the registrar, examiner, or commissioner, as the case may be. The witnesses may be cross-examined upon interrogatories either prepared beforehand or framed and put in writing at the time of the examination, and after cross-examination they may in the same manner be re-examined also upon written interrogatories, but the questions shall in all cases be put, and the interrogatories be administered, by the registrar, examiner, or commissioner.

Parties in the cause not to be present at examination in chambers except in certain cases.

XI. No party in a cause, except by special leave of the judge, shall be allowed to be present at such examination by the registrar, examiner, or commissioner, unless he shall be conducting the proceedings in person. And no party, proctor, or substitute shall be permitted to take any part in such examination, cross-examination,

or re-examination, or in any manner to interfere with or object to the conduct or proceedings of the registrar, examiner, or commissioner, except to design the witnesses to the several articles of the pleas, and to tender written interrogatories to the registrar, examiner or commissioner, for the purpose of their being administered to the witnesses.

Not necessary to repeat a witness to his deposition.

XII. It shall not be necessary to repeat a witness to his deposition, either in chief or on interrogatories; but the registrar, examiner, or commissioner who shall have taken the evidence shall certify at the foot of the deposition that the same has been read over audibly and distinctly to the witness, and that the witness has acknowledged the same to be true.

Deposition may be read at the hearing, though witness refuse to sign it.

XIII. If the witness refuse to sign his deposition, the registrar, examiner, or commissioner who shall have taken the evidence shall certify at the foot of the deposition that the witness has so refused, and that the deposition is in accordance with the evidence given by such witness, and the deposition of such witness may thereupon be read and referred to at the hearing of the cause.

Court may direct evidence to be taken down by shorthand writer.

XIV. It shall be competent to the court, whether the examinations take place in open court, or before the registrar, examiner, or commissioner, to direct the evidence of the witnesses to be taken down by a shorthand writer or reporter, who shall have been previously sworn faithfully to report the evidence, and a transcript of the shorthand writer's or reporter's notes, certified by him to be correct, and approved by the judge, or the registrar, examiner, or commissioner, as the case may be, shall be admitted to prove the oral evidence of the witnesses, and be taken down and used as evidence in the cause.

Witnesses may be produced on a reference before the registrar.

XV. Witnesses may be produced for examination before the registrar in any reference made to him either alone or with the assistance of merchants, after they shall have been duly sworn to speak the truth; and the evidence shall, if either party in the cause require it, be taken down by a shorthand writer or reporter appointed by the court, who shall be previously sworn faithfully to report the evidence, and a transcript of the shorthand writer's or reporter's notes, certified by him to be correct, and approved by the registrar, shall be admitted to prove the oral evidence of the witnesses, and be taken and used as evidence in any objection that may be taken to the registrar's report on such reference.

Pleadings &c. may be printed.

XVI. All the pleadings and proofs in a cause may, if the judge shall so direct, be printed prior to the hearing, and such printing shall be in such manner and form and under such regulations in regard to the cost and mode of printing the same as the judge of the court shall from time to time direct.

A.

PRELIMINARY ACT.

Insert title of cause_____

STATEMENT on behalf of the OWNERS of the

I.

The names of the vessels and their respective masters .

II.

Time of collision . . .

III.

Place of collision . . .

IV.

Direction of the wind . .

V.

State of the weather . .

VI.

The courses of the respective vessels on first sighting each other . . .

VII.

Distance at which the other vessel was first seen .

VIII.

Steps taken to avoid the collision

IX.

Parts of each vessel which first came into collision . .

this day of 185 .

_____ Signature of party or his proctor.

B.

CONCLUSION TO ACT ON PETITION.

In the presence of A.B., dissenting, denying, alleging, and praying as before.

Whereupon the judge assigned to hear on petition of both proctors whensoever.

(Signed) A.B.

C.D.

Date_____185 .

C.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to

greeting. Whereas, in a certain cause of civil maritime promoted in our Vice-Admiralty Court of on behalf of against the or vessel (whereof now is or lately was master), her tackle, apparel, and furniture and against intervening a commission has been duly decreed for the examination of certain witnesses necessary to prove the contents of the bearing date the day of One thousand eight hundred and given in in the said cause on behalf of the said (justice so requiring), We do therefore authorize and empower you, and do hereby will and require you that upon any day or days to be by you appointed (Sundays excepted), you do in the presence of the proctor of the said

or his lawfully appointed substitute or otherwise, notwithstanding his absence or contumacy, administer an oath upon the Holy Evangelists in due form of law unto the witnesses who shall be produced before you on behalf of the said to speak the truth in this behalf, and forthwith carefully examine and interrogate the said witnesses as well upon the articles of the said as upon the interrogatories to be administered by the proctor of the said or his substitute, either annexed to these presents or to be delivered to you at the time of the examination of the said witnesses, and cause their sayings and

depositions to be faithfully reduced into writing; and further, that upon such the examination of the said witnesses being completed, you transmit to the judge of our aforesaid court, or his surrogate, their sayings and depositions, and the whole proceedings had and done before you, reduced into a proper form, together with these presents.

Given in our aforesaid court, under the Great Seal thereof, the day of in the year of our Lord One thousand eight hundred and and of Our reign the

TABLE OF FEES

TO BE TAKEN BY THE

JUDGE, REGISTRAR, MARSHAL, ADVOCATES, AND PROCTORS OF THE VICE-ADMIRALTY COURT AT VICTORIA AND NEW SOUTH WALES.

TABLE OF FEES.

BY THE JUDGE.

1. Fees in the Progress of a Suit or Cause.

	Sterling Money. £	s.	d.
For administering an oath to a witness or party in a cause. Taking bail, whether by one or more persons. Decreeing monition, commission, attachment, or any other instrument; or for any judicial act done before or after the hearing of a cause, and not otherwise mentioned herein	0	2	0
The above fee of 2s. to be taken by the surrogate, whenever he performs the duty.			
On subduction of an action	0	3	6
On pronouncing a party to be in default	0	8	6
On signing a decree, pronouncing for the interest of a party proceeding *in pœnam*	0	8	6
On a sentence or interlocutory decree	1	6	8

2. Fees upon the Sealing of Instruments.

Warrant of arrest, monition, commission, decree, restitution, or attachment	0	6	6
Compulsory or subpœna, or any instrument not otherwise mentioned ...	0	4	0
Exemplification of any document or proceeding	0	10	0
Process transmitted to the Court of Appeal	0	6	6

BY THE REGISTRAR.

1. Fees on Instruments prepared by the Registrar.

For drawing and engrossing—			
Warrant to arrest ship, goods, or person	0	5	0
Bail bond	0	5	0
Monition, commission, or decree, whether of unlivery, appraisement or sale, or otherwise	0	13	4
Writ or instrument of restitution	0	13	4
Compulsory or subpœna against witnesses	0	5	0
Writ of attachment	0	13	4
If either of the preceding instruments exceed in length ten folios, for every folio beyond ten	0	1	4

Note.—The folio mentioned throughout this table of fees must contain ninety words, reckoning each figure as a word.

Should the registrar be required to prepare any other document, instrument, or matter whatsoever, not specified in this table, he will be entitled to the same charge as a proctor, viz.:—			
For drawing, for every folio	0	1	4
For fair copying or engrossing, for every folio	0	0	8

2. Fees on Documents not prepared by the Registrar, but by the Proctor, Solicitor, or Advocate in a Cause.

On a decree, pronouncing for the interest of a party proceeding *in pœnam*, being signed by the judge	0	8	6
On filing affidavit or protest of a master or mariners, without reference to the number of persons making the same	0	3	6
On filing libel, information, claim, proxy, or similar document	0	5	4
On filing exhibit annexed thereto, or to any affidavit	0	1	4
On entering (or engrossing) personal answers of a party in a suit, for each folio	0	0	8

3. Fees on taking the Examination of Witnesses.

	Sterling Money. £	s.	d.
On taking the examination of every witness on an information, libel, interrogatories, or plea, a fee of	0	8	6
For each folio to which the examination shall extend, if in English ...	0	1	4
If by interpretation (interpreter included)	0	2	8

Note.—It should be understood that the Registrar, or whoever acts as the Examiner for him should take the depositions in chief of the witnesses, on the libel, information, or plea itself, without written interrogatories; putting such relevant questions, *viva voce*, as may suggest themselves; and care should be taken not to lead the witness. The libel, information, or plea should therefore always be drawn sufficiently precise and full to enable the Examiner to take the examinations accordingly.

The cross-examinations must, of course, be taken on written interrogatories.

4. Fees on Office Copies of Papers or Proceedings.

For office copy of sentence or interlocutory decree, certified under seal ...	0	12	0
For office copy of any affidavit, examination, answers of a party, or other documents or proceedings in a cause, or extract therefrom, if under twelve folios	0	5	0
If exceeding twelve folios, for each folio beyond twelve	0	0	8
Office copies of papers and proceedings to form a process, to be transmitted to the Court of Appeal, or for any other purpose, for each folio contained therein	0	0	8

5. Fees on Translation of Papers.

Where papers are translated, the registrar should charge the disbursement actually made to the translator, with an addition of one-fourth, to compensate himself for his trouble, advance, &c.

6. Incidental Fees in the Progress of a Cause.

On subduction of an action	0	6	8
For entering every ordinary act of court	0	1	4
On every default pronounced against parties in contempt, in cases proceeding *in pœnam*	0	5	0
On every interlocutory decree or sentence, including drawing the act, to be paid by the party succeeding	0	13	4
Sportulage upon every sentence or interlocutory decree, to be paid by each party in a suit	0	13	4
Sportulage in a cause terminating without a sentence or interlocutory decree, to be paid by each party in a suit	0	8	6
For every attendance before a judge or surrogate, at which any decree is made, other than an interlocutory or sentence	0	5	0
For a receipt for original documents delivered out of the registry ...	0	2	0
On a search or examination of the records, by any person not being a party in the cause in which the search is made	0	2	6

Note.—No fee to be charged to a party in the cause, or to any seaman applying for search.

For advertising an intermediate or extra court-day, in addition to the sum paid for advertisement	0	6	8

7. On Paying out Money.

For preparing receipt for money to be paid out of the registry	0	1	4
Poundage on money paid out of the registry, for every pound sterling ...	0	0	2

8. Taxing Costs.

For taxing a bill of costs, if under six folios, from each party who attends the taxation	0	4	6
If the bill of costs exceed six folios, for every additional folio (besides the fees above mentioned), to be paid in equal proportions by each party who attends; and if but one party attend, to be paid by him solely	0	0	6

9. REFERENCES OF ACCOUNTS, ETC., BY THE JUDGE, TO THE REGISTRAR AND MERCHANTS.

	Sterling Money. £	s.	d.
To the registrar	5	5	0
To the assistant merchant	5	5	0

If two merchants, five guineas each.

BY THE MARSHAL.

For arresting a vessel, goods or person	1	1	0
For keeping possession of a vessel and cargo, jointly, or either of them singly, when the same are not under the responsible charge and custody of the officers of the Customs, for each day in which they remain in the marshal's charge	0	4	0
For inquiring into and certifying the sufficiency of persons proposed as sureties in any suit, for each surety	0	5	0
For release of a vessel, goods, or person from arrest	0	5	0
For executing every monition, or decree for answers of a party, or compulsory or other instrument not specified	0	6	8
For every default or decree, pronouncing for the interest of a party proceeding *in pœnam*	0	5	0
For every attendance in court, when a sentence or interlocutory decree is pronounced	0	10	0
For executing every decree or commission of appraisement, exclusive of the appraiser's fees, but including the making of the inventory, if the value should not exceed £500 sterling	1	6	8
For the like duty, when the value exceeds £500 sterling	2	0	0
For executing every decree or commission of sale of ship, or goods, by public auction, when the gross proceeds are under £200 sterling ...	1	6	8
And on every additional £100 sterling	0	13	4
On attending the execution of a decree or commission of unlivery of cargo (when not done for the purpose of sale), per day	2	2	0
For taking a person in execution after sentence, if the sum due from such person does not exceed £20 sterling	1	0	0
For the like duty, when the sum is above £20 and under £50 sterling ...	2	0	0
For the like duty, when the sum is above £50 and under £100 sterling, for every pound sterling due	0	1	0
And on every additional pound sterling after the first £100	0	0	6

NOTE.—Should it be necessary for the marshal to go any distance to execute any of the above duties, there should be paid to him for loss of time and travelling expenses, in addition to the preceding fees, the following :—

If the distance exceed two, and be under four miles	1	1	0
If above four, and under eight miles	2	2	0

If the distance be still greater, the allowance to be reasonably increased.

BY THE ADVOCATES.

It is not easy to lay down any precise rules respecting fees to counsel, inasmuch as the amount must depend upon the circumstances of each particular case, with reference to its length, importance, and difficulty.

In all undefended cases, and in matters of no great difficulty, one counsel ought to be considered sufficient.

Subject to these observations, the following suggestions are made, for the guidance of the proctor in feeing counsel, upon matters which most frequently occur in the progress of a suit :—

	Sterling Money. £	s	d.
Retaining fee to an advocate	2	2	0
For perusing, settling, and signing information or libel, claim and affidavit, act on petition, responsive plea (or replication) to libel or information, or act on petition, according to the length or difficulty ...	1	1	0 to 4 4 0

	Sterling Money. £	s.	d.
For perusing, settling, and signing interrogatories, answers, &c., when the same do not exceed twelve folios in length	1	1	0
For every additional fifteen folios, to the extent of sixty	1	1	0

NOTE.—It should be understood that, in preparing interrogatories for the cross-examination of witnesses, they are not to be drawn separately for each witness to whom the same are to be administered; but that, when practicable (as in most instances will be the case), one set of interrogatories should be prepared, generally applicable to all the witnesses.

For a consultation in any intermediate stage of the proceedings, should a necessity arise to resort to counsel for advice; but this ought not too frequently to occur, and only in cases of difficulty ...	1	1	0
	to		
	3	3	0
For any motion necessarily made by counsel before the judge in the progress of a cause	1	1	0
	or		
	2	2	0
The fee for the final hearing must depend upon the length of the evidence and the importance and difficulties of the cause; but, in cases of no great intricacy, the fee should be from three to five guineas, and not to exceed the latter sum, unless where the proceedings are voluminous, or unusually important or difficult ...	3	3	0
	to		
	5	5	0

BY THE PROCTORS.

Retaining fee	0	6	8
For attending before the judge or judge surrogate, either in court or chambers	0	6	8
On extracting any warrant, monition, commission, writ, or other instrument	0	7	6
Drawing libel, information, plea, claim, affidavit, act on petition, interrogatories, answers, or any other proceeding whatever, not herein specified, for every folio	0	1	4
Fair copying or engrossing, for every folio	0	0	8
For consultation with party, for the purpose of taking instructions for the libel, information, plea, act on petition, or for any other important purpose, during the dependence of a suit	0	6	8
For consultation with counsel, if any such should be found requisite, preparatory to the final hearing of a cause, or otherwise	0	13	4
For attendance on counsel to fee him to peruse, settle, and sign any information, libel, replication, or other plea, claim, affidavit, act on petition, answers, interrogatories, or other matter, or upon any other occasion that may arise on delivering papers and feeing counsel ...	0	6	8

NOTE.—Care should be taken not to increase the number of attendances, or consultations with counsel, which ought only to be resorted to when absolutely necessary.

For any necessary attendance on the registrar, or on the adverse proctor, during the progress of a cause, to adjust any incidental point in the suit, or on the marshal, to instruct him as to the service of any instrument, reporting bail, &c.	0	5	0
On all office copies of depositions, &c., obtained from the registrar, one-third of the actual sum paid at the registry is to be added for trouble of collating and extracting the same.			
For perusing and considering any papers, exhibits, or documents furnished, or introduced into a cause, by the adverse party, or furnished by a party to his own proctor, for the purpose of being brought forward as evidence in the suit, if not exceeding twelve folios	0	3	4
For every additional twelve folios	0	2	0
For attending informations on the final hearing of a cause, when it occupies only a short time, 10s.; if a few hours, 16s. 8d.; if a whole day, £1 6s. 8d.	0	10	0
	0	16	8
	or		
	1	6	8

NOTE.—Proceedings for the forfeiture of slaves, ships, or goods, and for the recovery of penalties consequent thereon, have, in some instances, been carried on by two separate suits—one for the condemnation of the property, and the other for the penalties. This mode of proceeding should be discontinued, one suit being only necessary to accomplish both objects.

UNDEFENDED PROSECUTIONS FOR BREACH OF THE ACTS FOR THE ABOLITION OF THE SLAVE TRADE.

	Sterling Money. £	s.	d.
In all such prosecutions carried on under one monition, where no party appears to defend—			
To the judge	1	10	0
To the registrar, including a copy of the interlocutory decree, or sentence	3	0	0
To the proctor	4	0	0
To the advocate	1	1	0
To the marshal	0	15	0
	£10	6	0

Approved.

(Signed) HERBERT JENNER. JAMES FARQUHAR.
JOHN DODSON. H. B. SWABEY.
STEPHEN LUSHINGTON. WM. ROTHERY.

PART II.

ORDERS IN COUNCIL

RELATING TO

APPEALS TO THE PRIVY COUNCIL

AND THE PRACTICE APPERTAINING THERETO.

APPEALS TO THE PRIVY COUNCIL.

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ORDER IN COUNCIL REGULATING COSTS OF APPEALS, TRANSCRIPT OF CASES, PRINTING OF CASES AND HEARING OF APPEALS BEFORE HER MAJESTY IN COUNCIL.

At the Court at Buckingham Palace, the 13th day of June 1853.

PRESENT:

THE QUEEN'S MOST EXCELLENT MAJESTY
HIS ROYAL HIGHNESS PRINCE ALBERT

Lord President	Earl of Aberdeen
Lord Steward	Earl of Clarendon
Duke of Newcastle	Viscount Palmerston
Duke of Wellington	Mr. Herbert
Lord Chamberlain	Sir James Graham, Bt.

Order. — 13 June 1853.

WHEREAS there was this day read at the Board a report from the Right Honorable the Lords of the Judicial Committee of the Privy Council, dated the 30th May last past, humbly setting forth that the Lords of the Judicial Committee have taken into consideration the practice of the Committee with a view to greater economy, despatch, and efficiency in the appellate jurisdiction of Her Majesty in Council, and that their Lordships have agreed humbly to report to Her Majesty that it is expedient that certain changes should be made in the existing practice in appeals, and recommending that certain Rules and Regulations therein set forth should henceforth be observed, obeyed, and carried into execution, provided Her Majesty is pleased to approve the same:

Her Majesty, having taken the said report into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof, and of the Rules and Regulations set forth therein, in the words following, videlicet:—

Appellant, when successful, may recover Costs of Appeal.

I. That, any former usage or practice of Her Majesty's Privy Council notwithstanding, an appellant who shall succeed in obtain-

Order. 13 June 1853.

ing a reversal or material alteration of any judgment, decree, or order appealed from, shall be entitled to recover the costs of the appeal from the respondent, except in cases in which the Lords of the Judicial Committee may think fit otherwise to direct.(a)

Transcripts to be sent to Registrar of Privy Council.

II. That the registrar or other proper officer having the custody of records in any court or special jurisdiction from which an appeal is brought to Her Majesty in Council be directed to send by post, with all possible despatch, one certified copy of the transcript record in each cause to the Registrar of Her Majesty's Privy Council, Whitehall; and that all such transcripts be registered in the Privy Council Office, with the date of their arrival, the names of the parties, and the date of the sentence appealed from; and that such transcript be accompanied by a correct and complete index of all the papers, documents, and exhibits in the cause; and that the registrar of the court appealed from, or other proper officer of such court, be directed to omit from such transcript all merely formal documents, provided such omission be stated and certified in the said index of papers; and that especial care be taken not to allow any document to be set forth more than once in such transcript; and that no other certified copies of the record be transmitted to agents in England by or on behalf of the parties in the suit; and that the fees and expenses incurred and paid for the preparation of such transcript be stated and certified upon it by the registrar or other officer preparing the same.

Transcripts may be printed abroad.

III. That when the record of proceedings or evidence in the cause appealed has been printed or partly printed abroad, the registrar or other proper officer of the court from which the appeal is brought shall be bound to send home the same in a printed form, either wholly or so far as the same may have been printed, and that he do certify the same to be correct, on two copies, by signing his name on every printed sheet, and by affixing the seal, if any, of the court appealed from to these copies, with the sanction of the court.

And that in all cases in which the parties in appeals shall think fit to have the proceedings printed abroad, they shall be at liberty to do so, provided they cause fifty copies of the same to be printed in folio, and transmitted, at their expense, to the Registrar of the Privy Council, two of which printed copies shall be certified as above by the officers of the court appealed from; and in this case no further expense for copying or printing the record will be incurred or allowed in England.

Written Transcripts to be printed by Her Majesty's Printer.

IV. That on the arrival of a written transcript of appeal at the Privy Council Office, Whitehall, the appellant or the agent of the appellant prosecuting the same shall be at liberty to call on the Registrar of the Privy Council to cause it, or such part thereof as

(a) On reversal of an order of the court below, no costs were given, as special leave to appeal was only allowed, to decide an abstract question of constitutional law.—*The Speaker of the Legislative Assembly of Victoria* v. *Glass*, L.R. 3, P.C., 560.

may be necessary for the hearing of the case, and likewise all such parts thereof as the respondent or his agent may require, to be printed by Her Majesty's Printer, or by any other printer on the same terms, the appellant or his agent engaging to pay the cost of preparing a copy for the printer at a rate not exceeding one shilling per brief sheet, and likewise the cost of printing such record or appendix, and that one hundred copies of the same be struck off, whereof thirty copies are to be delivered to the agents on each side, and forty kept for the use of the Judicial Committee; and that no other fees for solicitors' copies of the transcript or for drawing the joint appendix, be henceforth allowed, the solicitors on both sides being allowed to have access to the original papers at the Council Office, and to extract or cause to be extracted and copied such parts thereof as are necessary for the preparation of the petition of appeal, at the stationer's charge not exceeding one shilling per brief sheet.

Transcripts to be printed within a certain time.

V. That a certain time be fixed within which it shall be the duty of the appellant or his agent to make such application for the printing of the transcript, and that such time be within the space of six calendar months from the arrival of the transcript and the registration thereof in all matters brought by appeal from Her Majesty's colonies and plantations east of the Cape of Good Hope or from the territories of the East India Company, and within the space of three months in all matters brought by appeal from any other part of Her Majesty's dominions abroad; and that in default of the appellant or his agent taking effectual steps for the prosecution of the appeal within such time or times respectively, the appeal shall stand dismissed without further order, and that a report of the same be made to the Judicial Committee by the Registrar of the Privy Council at their Lordships' next sitting.(a)

Appeals may be heard in the form of a Special Case.

VI. That whenever it shall be found that the decision of a matter on appeal is likely to turn exclusively on a question of law, the agents of the parties, with the sanction of the Registrar of the Privy Council may submit such question of law to the Lords of the Judicial Committee in the form of a special case, and print such parts only of the transcript as may be necessary for the discussion of the same; provided that nothing herein contained shall in any way bar or prevent the Lords of the Judicial Committee from ordering the full discussion of the whole case, if they shall so think fit; and that in order to promote such arrangements and simplification of the matter in dispute, the Registrar of the Privy Council may call the agents of the parties before him, and having heard them, and examined the transcript, may report to the committee as to the nature of the proceedings.

And Her Majesty is further pleased to order, and it is hereby ordered, that the foregoing Rules and Regulations be punctually observed, obeyed, and carried into execution in all appeals or petitions and complaints in the nature of appeals brought to Her

(a) See as to prosecution of appeals without delay, Order in Council, 26 June 1873, *post*, p. 2713.

Order. — 13 June 1833.

Majesty, or to her heirs and successors, in Council, from Her Majesty's colonies and plantations abroad, and from the Channel Islands or the Isle of Man, and from the territories of the East India Company, whether the same be from courts of justice or from special jurisdictions, other than appeals from Her Majesty's courts of Vice-Admiralty, to which the said rules are not to be applied.

Whereof the judges and officers of Her Majesty's courts of justice abroad, and the judges and officers of the superior courts of the East India Company, and all other persons whom it may concern, are to take notice, and govern themselves accordingly.

WM. L. BATHURST.

ORDER IN COUNCIL, MAKING PROVISION FOR APPEALS FROM THE SUPREME COURT OF THE COLONY OF VICTORIA TO HER MAJESTY IN COUNCIL.

PRESENT:

THE QUEEN'S MOST EXCELLENT MAJESTY
HIS ROYAL HIGHNESS THE PRINCE CONSORT

Lord Chancellor	Lord Chamberlain
Archbishop (designate) of York	Lord John Russell
Lord President	Viscount Palmerston
Duke of Newcastle	Mr. Secretary Herbert
Lord Steward	Sir George Lewis, Bt.
Earl Spencer	Sir George Grey, Bt.
	Mr. Cardwell

Order. — 9 June 1860.

WHEREAS by an Act passed by the Governor and Legislative Council of the colony of Victoria in the fifteenth year of Her Majesty's reign, it was enacted that there should be in the said colony a court styled the "Supreme Court of the Colony of Victoria," with the power and jurisdiction therein mentioned; and that persons aggrieved by the decision of the said court might, in certain cases therein mentioned, appeal therefrom to Her Majesty in Council, but that nothing contained in the said Act should be construed to affect the Royal Prerogative, or to abridge the power of Her Majesty to allow any person so aggrieved to appeal to Her Majesty at any time in such manner as Her Majesty would be graciously pleased to allow: And whereas by an Act passed in a session of Parliament holden in the seventh and eighth years of Her Majesty, it was enacted that it should be competent to Her Majesty, by any Order or Orders in Council, to provide for the admission of appeals to Her Majesty in Council from any judgments, sentences decrees, or orders of any court of justice within any British colony or possession abroad, although such court should not be a court of

Order.
9 June 1860.

errors or appeal within such colony or possession, and to make provision for the instituting and prosecuting such appeals, and for carrying into effect any such decisions or sentences as Her Majesty in Council should pronounce thereon: And whereas it is desirable that provision should be made to enable parties to appeal from the decisions of the said Supreme Court to Her Majesty in Council:(a)

It is hereby ordered by the Queen's Most Excellent Majesty, by and with the advice of Her Privy Council, that any person or persons may appeal to Her Majesty, her heirs and successors, in her or their Privy Council, from any final judgment, decree, order,(b) or sentence of the said Supreme Court(c) of the colony of Victoria, in such manner, within such time, and under and subject to such rules, regulations, and limitations as are hereinafter mentioned; that is to say, in case any such judgment, decree, order, or sentence shall be given or pronounced for or in respect of any sum or matter at issue above the amount or value of Five hundred pounds sterling (£500) or in case such judgment decree, order, or sentence shall involve, directly or indirectly, any claim, demand, or question to or respecting property, or any civil right amounting to or of the value of Five hundred pounds sterling (£500),(d) the person or persons feeling aggrieved by any such judgment, decree, order, or sentence may, within fourteen days next after the same shall have been pronounced, made, or given, apply to the said court, by motion or petition, for leave to appeal therefrom to Her Majesty, her heirs and successors, in her or their Privy Council; and in case such leave to appeal shall be prayed by the party or parties who is or are directed to pay any such sum of money or perform any duty, the said court shall be and is hereby empowered, either to direct that the judgment, decree, order, or sentence appealed from shall be carried into execution, or that the execution thereof shall be suspended pending the said appeal, as to the said court may appear to be most consistent with real and substantial justice; and in case the said court shall direct such judgment, decree, order, or sentence to be carried into execution,

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(a) This order does not take away the right of appeal under 15 Vict. No. 10 s. 33 (*ante*, p. 2438).—*In re Rutledge*, 2 W. & W. (2 I. E. & M.), 51.

(b) This includes an order of justices in petty sessions.—*Bendigo Waterworks Company* v. *Thunder*, 1 A.J.R., 103.

The Supreme Court has no power to allow an appeal to the Privy Council against its decision refusing to set aside an order of a licensing bench inflicting a fine of £5 on a person for misbehaviour in court.—*Ex parte Fausset*, 3 A.J.R., 30.

A demurrer for want of parties being allowed, is not a final decision under this order for the purposes of an appeal.—*Woolley* v. *The Ironstone Hill Lead Gold Mining Co.*, 1 V.L.R. (Eq.), 287.

(c) Leave to appeal will be granted direct from the decision of the primary judge.—*Woolley* v. *The Ironstone Hill Lead Gold Mining Co.*, 1 V.L.R. (Eq.), 25.

(d) Where the principal point involved in the suit has reference to a right-of-way, the value of the adjoining property cannot be taken into consideration in estimating the amount involved. — *Wakefield* v. *Parker*, N.C. 40; s.c. 6 W.W. & a'B. (Eq.), 322.

Where the amount claimed as damages in the declaration was £500, and the court had given judgment in demurrer in favor of the plaintiff but the cause was not yet tried, leave to appeal was refused.—*McKinnon* v. *The Board of Land and Works*, 3 A.J.R., 47.

The value of the matter in issue is a fact to be tried and controverted, and upon which both sides are to be heard.—*Kettle* v. *The Queen*, 3 W.W. & a'B. (Eq.), 141.

Where the jury found the subject matter in issue to be of the value of £500 exactly, the court refused leave to appeal, there being nothing else in issue between the parties.—*Gardiner* v. *McCulloch*, 2 V.L.R. (L.), 128.

Order. 9 June 1860.

the person or persons in whose favor the same shall be given shall, before the execution thereof, enter into good and sufficient security, to be approved by the said court, for the due performance of such judgment or order as Her Majesty, her heirs and successors, shall think fit to make thereupon; and in all cases security shall also be given by the party or parties appellant in a bond or mortgage or personal recognizance not exceeding the value of £500 sterling for the prosecution of the appeal, and the payment of all such costs as may be awarded by Her Majesty, her heirs and successors, or by the Judicial Committee of Her Majesty's Privy Council, to the party or parties respondent; and if such last-mentioned security shall be entered into within three months from the date of such motion or petition for leave to appeal, then, and not otherwise, the said court shall allow the appeal, and the party or parties appellant shall be at liberty to prefer and prosecute his, her, or their appeal to Her Majesty, her heirs and successors, in her or their Privy Council, in such manner and under such rules as are or may be observed in appeals made to Her Majesty from Her Majesty's colonies and plantations abroad.(a)

And it is further ordered, that it shall be lawful for the said Supreme Court, at its discretion, on the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, order, or sentence of the said Supreme Court, to grant permission to such party to appeal against the same to Her Majesty, her heirs and successors, in her or their Privy Council, subject to the same rules, regulations, and limitations as are herein expressed respecting appeals from final judgments, decrees, orders, and sentences.(b)

Provided also, that if in any action, suit, or other proceeding it shall so happen that no final judgment, decree, order, or sentence

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(a) This is an Imperial provision having no reference to our Colonial Rules of Court; and therefore the provisions of the Rules of the Supreme Court cap. 1 r. 15 do not apply, and the vacation and holidays count in the three months required by this order.—*Johnson* v. *Colclough*, 5 A.J.R., 66; s.c. on appeal, *ibid.* 131.

In appeals under this Order in Council, two orders are required; the first in the application for leave to appeal, which is a conditional order; the second when the security shall have been perfected, which is an order absolute.—*Ibid.*

Where the security is not entered into within the specified time, the first order does not discharge itself, but must be discharged upon motion.—*Ibid.*

(b) Leave refused, where the order was for an interlocutory injunction.—*Davis* v. *The Queen*, 6 W.W. & a'B. (Eq.), 126.

Where the order is that execution should not be stayed pending the appeal, the court has no jurisdiction to impose a condition directing interest to be paid upon the amount to be received under the execution.—*Stevenson* v. *Bear*, 3 A.J.R., 30.

On leave to appeal being given, a receiver may be granted upon a substantive cross motion by the respondent — *Johnson* v. *Colclough*, 1 V.L.R. (Eq.), 31.

For order, with injunction by consent, &c.—*Australasian Gold Mining Company* v. *Wilson*, 4 A.J.R., 91.

On motion for leave to appeal, either execution of the order appealed from must be stayed simply, or the respondent must give security to perform the order on appeal.—*Johnson* v. *Colclough*, *ubi sup.*

And the court has no power to impose terms on the appellant, notwithstanding that, by a decree in another suit almost similar in its facts, the Privy Council has virtually decided against him.—*Newey* v. *The Garden Gully Company*, 2 V.L.R. (Eq.), 26.

Upon leave being given to appeal against a decision of the court in favor of the Crown, the court is bound by the Order in Council, if the decree be carried into execution, to require that the Crown shall enter into security for the due performance of the order of the Privy Council on the appeal.—*Kettle* v. *The Queen* 3 W.W. & a'B. (Eq.), 141.

Order.
9 June 1860.

can be duly given in consequence of a disagreement of opinion between the judges of the said Supreme Court, then and in such case the final judgment, decree, order, or sentence may be entered *pro formâ*, on the petition of any of the parties to the action, suit, or other proceedings, according to the opinion of the Chief Justice, or in his absence of the Senior Puisne Judge of the said Supreme Court, provided that such judgment, decree, order, or sentence shall be deemed a judgment, decree, order, or sentence of the court for the purpose of an appeal against the same, but not for any other purpose.

Provided always, and it is hereby ordered, that nothing herein contained doth or shall extend or be construed to extend to take away or abridge the undoubtable right and authority of Her Majesty, her heirs and successors, upon the humble petition at any time of any person or persons aggrieved by any judgment or determination of the said court, to admit his, her, or their appeal therefrom, upon such terms and upon such securities, limitations, restrictions, and regulations, as Her Majesty, her heirs or successors, shall think fit, and to reverse, correct, or vary such judgment or determination as to Her Majesty, her heirs and successors, shall seem meet.

And it is further ordered, that in all cases of appeal allowed by the said court, or by Her Majesty, her heirs or successors, the said court shall certify and transmit to Her Majesty, her heirs and successors, in her or their Privy Council, a true and exact copy of all evidence, proceedings, judgments, decrees, and orders had or made in such cases appealed, so far as the same have relation to the matters of appeal, such copies to be certified under the seal of the said court; and that the said court shall also certify and transmit to Her Majesty, her heirs and successors, in her or their Privy Council, a copy of the reasons given by the judges of such court, or by any of such judges, for or against the judgment or determination appealed against, where such reasons shall have been given in writing, and where such reasons shall have been given orally then a statement in writing of the reasons given by the judges of such court, or by any of such judges, for or against the judgment or determination appealed against.

And it is further directed and ordained, that the said court shall, in all cases of appeal to Her Majesty, her heirs or successors, conform to and execute, or cause to be executed, such judgments and orders as Her Majesty, her heirs and successors, shall think fit to make in the premises, in such manner as any original judgment, decree, or decretal order, or other order or rule of the said court, should or might have been executed.

And the Most Noble the Duke of Newcastle, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

ARTHUR HELPS

ORDER IN COUNCIL FOR THE ESTABLISHMENT OF CERTAIN RULES TO BE OBSERVED BY PROCTORS, SOLICITORS, AGENTS, AND OTHER PERSONS ADMITTED TO PRACTISE BEFORE HER MAJESTY'S MOST HONORABLE PRIVY COUNCIL.

At the Court at Windsor, the 31st day of March 1870.

PRESENT:

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

Order. — 31 Mar. 1870.

WHEREAS there was this day read at the Board a representation from the Lords of the Judicial Committee of the Privy Council, dated the 26th day of March instant, humbly recommending to Her Majesty in Council that certain rules be established by the authority of Her Majesty, by and with the advice of Her Privy Council, to be observed by all proctors, solicitors, attornies, agents, or other persons employed in the conduct of appeals, petitions, or other matters pending before Her Majesty in Council, Her Majesty having taken the said representation into consideration, and the Schedule of Rules hereunto annexed, was pleased, by and with the advice of Her Privy Council, to approve thereof, and to order, and it is hereby ordered, that the same be punctually observed, obeyed, and carried into execution.

ARTHUR HELPS.

Schedule annexed to the foregoing Order.

I. Every proctor, solicitor, or agent admitted to practise before Her Majesty's Most Honorable Privy Council, or any of the committees thereof, shall subscribe a declaration, to be enrolled in the Privy Council Office, engaging to observe and obey the rules, regulations, orders, and practice of the Privy Council; and also to pay and discharge, from time to time, when the same shall be demanded, all fees or charges due and payable upon any matter pending before Her Majesty in Council; and no person shall be admitted to practise or allowed to continue to practise before the Privy Council, without having subscribed such declaration in the following terms:—

Form of Declaration.

We, the undersigned, do hereby declare that we desire and intend to practise as solicitors or agents in appeals and other matters pending before Her Majesty in Council; and we severally and respectively do hereby engage to observe, submit to, perform, and abide by all and every the orders, rules, regulations, and practice of Her Majesty's Most Honorable Privy Council and the committees thereof now in force, or hereafter from time to time to be made; and also to pay and discharge, from time to time, when the same shall be demanded, all fees, charges, and sums of money due and payable in respect of any appeal, petition, or other matter in and upon which we shall severally and respectively appear as such solicitors or agents.

Order. — 31 Mar. 1870.

II. Every proctor, solicitor, or attorney practising in London, and duly admitted in any of the courts of Westminster, shall be allowed to subscribe the foregoing declaration, and to practise in the Privy Council, upon the production of his certificate for the current year; and no fee shall be payable by him on the enrolment of his signature to the foregoing declaration.

III. Persons not being certificated London solicitors, but having been duly admitted to practise as solicitors by the High Courts of Judicature in India or in the colonies respectively, may apply, by petition, to the Lords of the Judicial Committee of the Privy Council for leave to be admitted to practise in the Privy Council; and such persons, if admitted to practise by an order of their Lordships, shall pay annually, on the 15th November, a fee of five guineas to the fee fund of the Council Office.

IV. Any proctor, solicitor, agent, or other person practising before the Privy Council, who shall wilfully act in violation of the rules and practice of the Privy Council, or of any rules prescribed by the authority of Her Majesty, or of the Lords of the Council, or who shall wilfully misconduct himself in prosecuting proceedings before the Privy Council, or any committee thereof, or who shall refuse or omit to pay the Council Office fees or charges payable from him when demanded, shall be liable to an absolute or temporary prohibition to practise before the Privy Council, by the authority of the Lords of the Judicial Committee of the Privy Council, upon cause shown at their Lordship's bar.

ORDER IN COUNCIL REGULATING THE FORM AND TYPES TO BE USED FOR APPEALS FROM THE SUPREME COURT OF VICTORIA TO HER MAJESTY IN COUNCIL, IN THE PRINTING OF THE CASES, RECORDS, AND PROCEEDINGS PENDING BEFORE THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.(a)

At the Court at Windsor Castle, the 24th day of March 1871.

PRESENT:

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

Order. — 24 Mar. 1871.

WHEREAS there was this day read at the Board a representation from the Lords of the Judicial Committee of the Privy Council, dated the 20th January 1871, humbly recommending to Her Majesty in Council that certain Rules be established by the authority of Her Majesty by and with the advice of Her Privy Council, to be observed in the form and type used in the printing of all Cases, Records, and other proceedings in Appeals and other matters pending before the

(a) This order is not intended to deprive suitors of the option which they now enjoy, under Her Majesty's Order in Council of the 13th June 1853, *ante*, p. 2697, of printing the records abroad, or of sending them over in manuscript to be printed in England.

Order. — 24 Mar. 1871.

Judicial Committee of the Privy Council, Her Majesty having taken the said representation into consideration, and the Schedule of Rules hereunto annexed, was pleased, by and with the advice of Her Privy Council, to approve thereof, and to order, and it is hereby ordered, that the same be punctually observed, obeyed, and carried into execution. Whereof the judges and officers of all the courts of justice in Her Majesty's dominions from which an appeal lies to Her Majesty in Council, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

ARTHUR HELPS.

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SCHEDULE ANNEXED TO THE FOREGOING ORDER.

I. All Cases, Records, and other proceedings in Appeals, or other matters pending before the Judicial Committee of the Privy Council, are henceforth to be printed in the form known as DEMY QUARTO, and not in demy folio, as hath heretofore been used.

II. The size of the paper used is to be such that the sheet, when folded, will be eleven inches in height and eight inches and a half in width.

III. The type to be used in the text is to be Pica type, but Long Primer is to be used in printing accounts, tabular matter, and notes.

IV. The number of lines in each page of Pica type is to be forty-seven, each line being five inches and three quarters or 146 millimetres in length.

V. The foregoing Rules do not apply to cases now pending in which the printing of the Record is begun before the receipt of this Order, but in all cases printed after the receipt of this Order the form and type herein prescribed are to be used exclusively.

VI. The price in England for printing 75 copies in the form herein established is to be thirty-eight shillings per sheet (eight pages) of pica, with marginal notes, not including corrections, tabular matter, and other extras.

VII. The form of paper and type of the present Order in Council, with the pages hereunto annexed,[a] are to serve as a specimen sheet or pattern for the printing of the proceedings before the Judicial Committee of the Privy Council.

A. H.

(a) The size and form of the paper and type, number of lines in page, &c., in the following pages, said to serve as a specimen, &c., do not correspond with the specimen as furnished in the original print of the Order in Council and schedule thereto. For more correct information, reference should be made to the *Government Gazette*, No. 45, 30th June 1871, pp. 1022 *et seq.*

[SPECIMEN.]

Order.

24 Mar. 1871.

In the Privy Council.

ON APPEAL FROM THE HIGH COURT OF JUDICATURE, AT FORT WILLIAM IN BENGAL.

BETWEEN

MAHARANEE INDURJEET KOONWUR - - *Appellant,*

AND

MUSST. AMEEROONISSA BEGUM *alias* NUNKOO SAHEBA, Widow of TALIB ALLY KHAN *alias* KHAWJEH SULTAN JAN, deceased; MUSST. AFZULUN NISSA BEGUM and SYUD MAHOMED HOSSEIN KHAN, Heiress and Heir respectively of SYUD KASIM ALLY KHAN, deceased. - - - - - - *Respondents.*

No. 302 of 1865.

RECORD OF PROCEEDINGS.

PART I.

RECORD. PART I.

IN THE COURT OF THE PRINCIPAL SUDDER AMEEN OF BEHAR.

In the Court of the Principal Sudder Ameen of Zillah Behar.

PLEADINGS AND PROCEEDINGS

Pleadings and Proceedings.

No. 1.

No. 1. Plaint on behalf of Maharajah Hetnarain Singh Bahadoor, dated the 20th of Feb., 1861.

PLAINT on behalf of Maharajah Het Narain Sing Bahadoor. No. 75 of 1861 A.D., Regular.

Maharajah Het Narain Sing Bahadoor, Zemindar of Purgunnah Sunote, &c., inhabitant of Kusba Tekaree of the said Purgunnah, Zilla Behar, professionally a Zemindar - *Plaintiff,*

versus

Mussumat Ameeroon Nessa Begum *alias* Nunkoo Sahiba, pleading the collusive Kobalah, dated 18th November, 1847 A.D. - - - - - - - - - *Appellant.*

Claim to recover Rs. 2,49,800, the principal and interest of a decree, and the cost of a decision passed by the Principal Sudder Ameen of Zillah Behar, dated 30th December, 1856 A.D., and of the decision passed by (Dewanee)

Order.

24 Mar. 1871.

[SPECIMEN.]

RECORD.

In the Court of Queen's Bench for Lower Canada.

No. 67.
Judges' Reasons.

Opinion of Chief Justice Meredith, S.C.—*continued.*

1825; but there is nothing in the donation to show that Pierre Roy had any idea of curtailing the powers which by his will he had previously given to his son. The reasons for giving those powers were as cogent at the date of the donation as at the date of the will. And the confidence which the father reposed in the prudence and discretion of his son appears not to have decreased, but on the contrary to have increased, in the period that intervened between the will and the donation. The object of the donor as expressly avowed in the donation was to acknowledge "les bons et essentiels services" which Joseph Roy has rendered to his father, and to recompense him for those services, "l'en récompenser," and this object was carried out by giving to Joseph Roy the power to appropriate to himself during his father's lifetime such portions of the property mentioned in the donation as he might require for building lots, and by giving him an irrevocable title to the deed of donation to the property therein mentioned, of which previously he had only an expectation under his father's will. And yet it is contended that although the will affords proof of the father's confidence in his son having increased, and although the avowed and direct object of it was to recompense him for the important services which he rendered to his father, yet that it indirectly deprived him, in the event of his not having children, of the power respecting his father's property which under the will he was to have had in that case.

Schedule No. 8.

No. 10.
Donation by Pierre Roy to his son Joseph Roy, dated 21st May 1825, filed 24th September 1861.

Pardevant les notaires de la ville et district de Montréal, dans la province du Bas Canada, y résidant, soussignés fut présent le Sieur Pierre Roy, ci-devant marchand, demeurant, au Fauxbourg St. Laurent en cette cité de Montréal. Lequel désirant reconnoitre les bons et essentiels services que lui a rendus Mtre. Joseph Roy, notaire de cette ville, son fils, et l'en récompenser a reconnu et confessé avoir fait don et donation entre vifs, et pour plus grande validité a promis et promet garantir de tous troubles, dons, douaires, dettes, hypothèques, évictions, substitutions, aliénations et autres empêchements généralement quelconque au dit Mtre. Joseph Roy son fils, à ce présent et acceptant donataire pour lui et ses hoirs et ayant cause à l'avenir un terrain scis et scitué au dit Fauxbourg St. Laurent en cette cité de Montréal de la contenance qu'il peut avoir tant en front qu'en profondeur, tenant d'un bout au Sud Est à la rue Dorchester d'autre bout au Nord Ouest à la rue Ste. Catherine d'un côté au Sud Ouest à la rue Ste. Elizabeth d'autre côté au Nord Est à la rue Sanguinet avec cinq maisons et autres bâtiments dessus construits et le reste du terrain occupé en prairies, vergér, et jardin, ainsi que le tout se poursuit et comporte et étend de toutes parts circonstances et dépendances qui le dit cessionnaire a dit bien scavoir et connoitre pour l'avoir vu et visité en est content et satisfait pour du dit terrain jouir, user, faire, et disposer, par le dit Mtre. Joseph Roy à titre de constitut et précaire sa vie durante à commencer la dite jouissance seulement au décès du dit donateur qui se reserve la jouissance et usufruit du dit terrain sa vie durante à titre de constitut et précaire seulement; et après le décès du dit Mtre. Joseph Roy donataire la propriété du dit terrain demeurera à ses enfants nés en légitimes mariages et à deffaut d'enfants nés en légitime mariage du dit

[SPECIMEN.]

Order.

24 Mar. 1871.

RECORD.

In the District Court of Colombo.

No. 7.
Return of Commission on 17th April, 1866
—*continued.*

5

I am aware that the bank is suing on the promissory note for five thousand pounds; that transaction went through my hands. The last endorser (Nany Tamby) gave me the note for the purpose of discounting, it was brought to me before Nany Tamby brought it to me. Sinne Lebbe Brothers brought it to me. The representative of the firm at Colombo brought it to me.*

* It is observed that this sheet of sand was formerly the bed of the river, and the portion of land connected with this estate, which was situated to the west of the green colour up to the black line, was washed away by the river.

I cannot say when the note was first brought to me. When it was brought it was drawn by Sinne Lebbe Brothers, and endorsed by the Defendants. Sinne Lebbe brought it to the bank for discount. I objected to it at that time. I said it was not strong enough, and that he as the maker could not get the money. I suggested that he should get a third name to it. He took it away and brought it back endorsed by Nany Tamby, then reputed to be a very wealthy native.

Nos. 292, 291, 290, 275, 474, 263, 264, 265, 261, 260, 269, 254, 252, 245, 242, 241, 217, 216, 215, and 447.

I discounted the promissory note. I gave the money, five thousand pounds, the full five thousand, to Nany Tamby, by putting it to his credit. I have no recollection of anyone being present on behalf of Sinne Lebbe Brothers when this was done. I advanced this on the security of the names of Defendants and Nany Tamby.

I never saw Tatham before the bill was discounted.

I had no discussion with him before it was drawn.

I don't remember having said to Mr. Tatham, "I wish you would sign "a promissory note for Sinne Lebbe Brothers." I knew that Mr. Tatham was negotiating a loan of fifty thousand pounds to Sinne Lebbe Brothers. I don't recollect having said to Mr. Tatham, If negotiations go on the note will be all right, if not I will make other arrangements. It would have been a temporary affair if the other arrangements had been carried out. If Mr. Tatham had carried out the arrangements by advancing the fifty thousand pounds, the five thousand pounds would have been retired; that is, he would have paid the five thousand pounds to the bank and take up his note.

If the fifty thousand pounds had not been advanced, I should have looked to the parties whose names were on the note for the amount thereof. The note was to be paid in any event.

And the said Francis Wharton Le Marchand being then and there cross-examined by the said Mr. Philbrick on the part of the Defendants, the following were the answers given on such cross-examination:

There was no particular or special arrangement that the note was to be paid in any event.

The firm of Sinne Lebbe and Co. was then largely indebted to the bank, and also to Tatham's firm.

I had many conversations with Tatham as to keeping Sinne Lebbe's firm on foot. The business to be done was very large, and the agency valuable. Whoever lent the money was to have Sinne Lebbe's business. Tatham was interested in keeping Sinne Lebbe's firm on foot. We, as bankers, were applied to for money for that purpose. Several estates belonging to Sinne Lebbe.

Order.

24 Mar. 1871.

RECORD. PART 1.

In the High Court of Calcutta.

[SPECIMEN.]

6

Grounds of Appeal.

The same as in Appeal No. 102.

Order of Appellate Court and Grounds of Decision accepting or rejecting Appeal.

The same as in Appeal No. 102.

(Signed) GORE OUSELEY, Commissioner, Lucknow Division.

Commissioner's Court, Lucknow Division,
Dated 2nd September, 1868.

True copy. (Signed) BRIJ BHOOKHUN LALL, Registrar, Judicial
(L.S.) Commissioner's Court, Oudh.

No. 22. Minutes of Assistant Settlement Officer, July and August, 1867.

No. 15.

Settlement Department.

Appeal No. 100 of 1868.

Appeal, Settlement Court, instituted on the 31st July, 1868. Disposed of by the Commissioner, Lucknow Division, Gore Ouseley, Esquire, from the order of H. H. Butts, Esq., Assistant Settlement Officer of Lucknow, dated 30th June, 1868.

Choudhree Mohomed Nasir - *Plaintiff, Appellant,* *versus* Raja Ameer Hussun Khan - *Plaintiff, Respondent.*

Kalée Pershad Wakeel and Choudhree Mohomed Nasir, in person, Nawazish Ally Wakeel, present, on 2nd September, 1868.

Nature of case and point at issue.

Claim to proprietary title of Khan Mahomedpoor, Pergunnah Koorsee.

DECREE.

I dismiss this appeal.

(Signed) GORE OUSELEY, Commissioner, Lucknow Division.

Commissioner's Court, Lucknow.
Dated the 2nd September, 1868.

True Copy. (Signed) BRIJ BHOOKHUN LALL, Registrar
(L.S.) to the Court of the Judicial Commission, Oudh.

No. 23. Judgment, dated 8th Aug., 1867.

No. 16.

Settlement Department.

Appeal No. 163 of 1868.

Appeal, Settlement Court, instituted on the 15th August, 1868. Disposed of by the Commissioner, Lucknow Division, Gore Ouseley, Esquire, from the Order of H. H. Butts, Esquire, Assistant Settlement Officer of Lucknow, dated 17th July, 1868.

True Copy. (Signed) BRIJ BHOOKHUN LALL, Registrar
(L.S.) to the Court of the Judicial Commissioner, Oudh.

[SPECIMEN.]

7

No. 15.

Order.

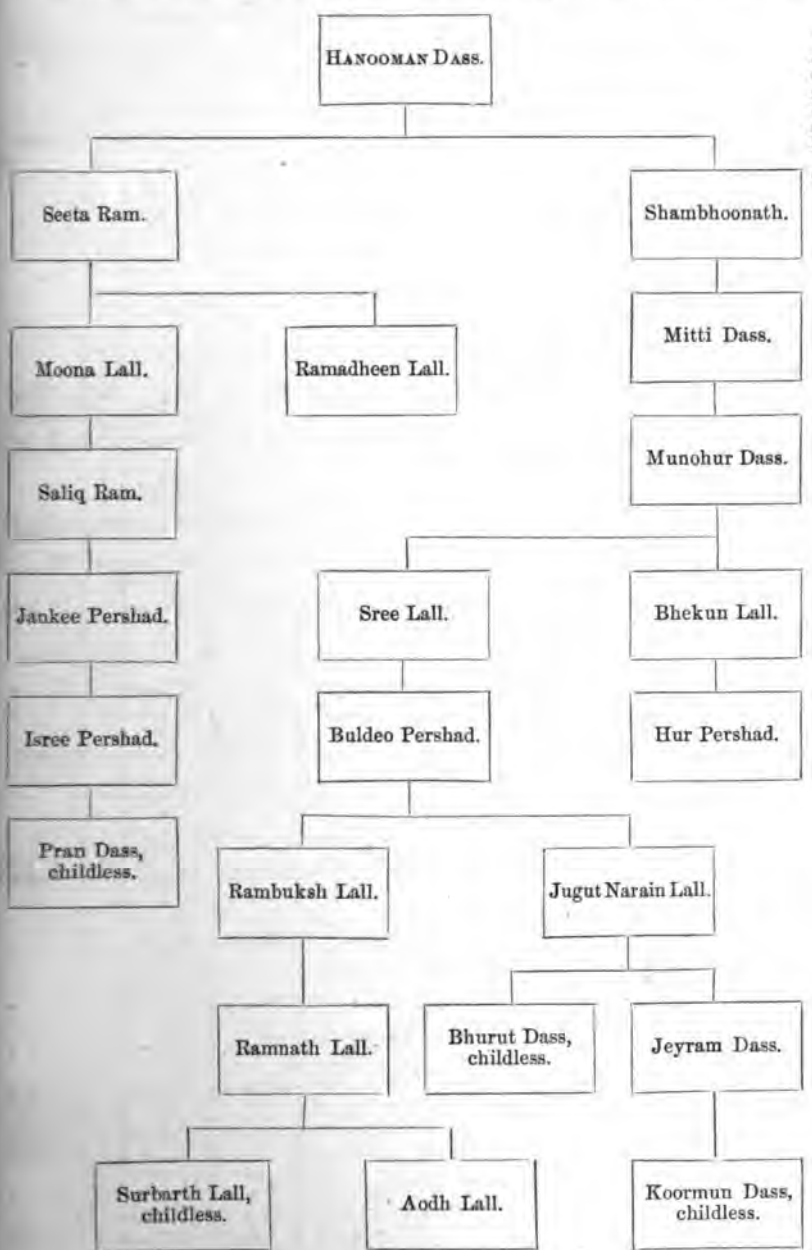
24 Mar. 1871.

RECORD. PART I.

In the Court of the Principal Sudder Ameen of Zillah Goruckpoor.

No. 4. Genealogical Table of the Family of Baboo Bhowanee Pershad, filed with Defendant's Written Statement.

GENEALOGICAL TABLE of the Family of Baboo Bhowanee Pershad, the husband and brother-in-law (husband's brother) of the Defendants.



Order.

24 Mar. 1871.

RECORD.
PART XI.

In the High Court of Judicature at Fort William in Bengal.

No. 260.
Copy of Proceeding of Deputy Collector of Furreedpore, dated 16th Sept., 1848.

[SPECIMEN.]

8

Name of the Holders.	Arabic Nos. (how many Fields.	Extent.	Assessment.	Allowance Cash.	Total.	Rate of Pay fixed.	The difference to be levied now.	Do. to be levied after.
		A. G. A.	RS. AS. P.					
1. Bylapa, son of Dodbusapa	1	57 14 „	35 „ „	—	35 „ „	14 „ „	—	21 „ „
2. Faraji Walluker, Havaldar	1	25 16 „	15 „ „	—	15 „ „	14 „ „	—	1 „ „
3. Hirayama; his substitute, Tirkapa, son of Bylapa	1	11 8 „	8 4 „	—	8 4 „	14 „ „	—	
4. Bassapa, son of Fukeerapa Rukasaji	1	18 37 „	12 „ „	—	12 „ „	14 „ „	—	
5. Genapa Tulwar, absconded; manager, Rawalla bin Ningupa, Dessai	1	21 24 „	10 „ „	—	10 „ „	14 „ „	—	
6. Muree Tamapa Nargoond, absconded; manager, ditto	2	20 11 „	13 „ „	—	13 „ „	14 „ „	—	
7. Lugmana, son of Chennanna	1	22 9 „	16 „ „	—	16 „ „	14 „ „	—	2 „ „
8. Bussapa Wooklee, son of Shivapa	1	25 8 „	20 „ „	—	20 „ „	14 „ „	—	6 „ „
9. Shivana, son of Ninganna Barmudgee	1	83 7 „	12 „ „	—	20 „ „	14 „ „	—	
10. Golapa, son of Genapa Anermony	1	26 20 „	20 „ „	—	12 „ „	14 „ „	—	6 „ „
11. Firkapa, son of Sukrapa Koodree	3	34 25 „	24 „ „	—	24 „ „	14 „ „	—	10 „ „
12. Sinjeevuna, son of Mullana Doolud	3	39 8 „	24 „ „	—	24 „ „	14 „ „	—	10 „ „
13. Rayapa, son of Rachapa, substitute of Sivya and Hunma Tulwar	3	79 29 „	30 „ „	—	30 „ „	14 „ „	—	16 „ „
14. Malana, son of Rayana	8	88 27 „	20 „ „	—	20 „ „	14 „ „	—	6 „ „
15. Kunka Ruksgee, absconded; manager, Ramapa bin Ningupa, Dessai	8	8 34 „	8 „ „	—	8 „ „	14 „ „	—	
16. Irapa, son of Hoochapa, substitute of Irapa Muree, Tumapo and Roodrapa	8	30 5 „	20 „ „	—	60 „ „	14 „ „	—	6 „ „
17. Hatelsaheb, son of Sooltansaheb Kurnachi	2	21 38 „	21 „ „	—	21 „ „	14 „ „	—	7 „ „
18. Sunjeeva, substitute of Timana Bhogapoor	2	31 8 „	35 „ „	—	35 „ „	14 „ „	—	21 „ „
19. Dodapa, son of Honopa Bellee Kutleen	2	28 19 „	30 „ „	—	30 „ „	14 „ „	—	16 „ „
20. Ningapa Gonnul, son of Ganyapa	2	40 23 „	25 „ „	—	25 „ „	14 „ „	—	11 „ „
21. Ningapa Hoonkoonte, son of Boodapa, absconded; manager, Ramapa bin Ningapa, Dessaee	2	54 10 „	30 „ „	—	30 „ „	14 „ „	—	16 „ „
	62	1,134 20 „	813 „ „	—	813 4 „	—	—	863 „ „

ORDER IN COUNCIL REGULATING THE SETTING DOWN OF APPEALS FOR HEARING.

At the Court at Windsor, the 26th day of June 1873.

PRESENT:

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

Order.
—
26 June 1873.

WHEREAS in many appeals now pending before Her Majesty in Council no effectual steps have been taken by the parties or their agents to set down their cases for hearing, although more than twelve months have elapsed since the arrival and registration of the transcript of appeal in this country, and it is expedient to make further provision in that behalf, Her Majesty, by and with the advice of Her Privy Council, and upon a recommendation of the Lords of the Judicial Committee of the Privy Council, is pleased to order, and it is hereby ordered, that the solicitors or agents for the party appellant in all such appeals now pending before Her Majesty in Council are hereby required to take effectual steps to set down their cases for hearing within six months from the date of this Order, and in all other appeals to Her Majesty in Council within a period not exceeding twelve months from the date of the arrival and registration of the transcript in this country.(a)

And Her Majesty is further pleased to order, and it is hereby ordered, that it shall be the duty of the Registrar of the Privy Council to report to the Lords of the Judicial Committee the names of the parties and dates of the decrees in appeals in which no effectual steps have been taken within the aforesaid periods of time to set down the case for hearing; and the Lords of the Judicial Committee of the Privy Council shall be at liberty to call upon the appellant or his agent in such cases to show cause why the said appeal or appeals should not be dismissed for non-prosecution, and (if they shall so think fit) to recommend to Her Majesty the dismissal of any such appeal, or to give such directions therein as the justice of the case may require.

(a) In the case of *Goldsborough* v. *McCulloch*, 2 A.J.R., 1; s.c., 1 V.R. (L.), 192, where the plaintiffs had failed to prosecute the appeal, the Supreme Court held, that it was powerless to compel them to proceed, the case being no longer within the jurisdiction of the court.

The Supreme Court has no jurisdiction to interfere where, after leave having been obtained to appeal and the deposit of £500 to abide the appeal made, the appellants desired to withdraw the appeal.—*Byrnes* v. *Clough*, 2 W. W. & a'B. (L.), 17. See *post*, Reg. Gen. Sup. Ct., 15 Aug. 1876, r.r. 14, 15, and 16.

Order.
26 June 1873.

And Her Majesty is further pleased to order that nothing in the present Order shall prevent the dismissal of an appeal under the 5th of the rules approved by Her Majesty on the 13th of June 1853, in cases to which that rule is applicable.

Whereof the governors of Her Majesty's plantations and dominions abroad, and the judges or officers of Her Majesty's courts of justice from which an appeal lies to Her Majesty in Council, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) ARTHUR HELPS.

PART III.

REGULÆ GENERALES

OF THE

SUPREME COURT OF THE COLONY OF VICTORIA.

REGULÆ GENERALES OF THE SUPREME COURT.

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RULES FOR REGULATING THE PLEADING AND PRACTICE AND ESTABLISHING THE AMOUNT OF FEES, COSTS AND CHARGES TO BE PAID IN THE SUPREME COURT OF THE COLONY OF VICTORIA.

Reg. Gen. 1 Feb. 1854.

WHEREAS by an Act of the Lieutenant-Governor and Legislative Council of the Colony of Victoria, passed in the fifteenth year of Her present Majesty Queen Victoria, intituled "An Act to make provision for the better administration of Justice in the colony of Victoria," being No. 10, it was amongst other things enacted "That it shall be lawful for the said court from time to time to make such rules for regulating the forms of process and mode of pleading in the said court, and for the practice of the same in all its various departments, and for fixing the amount of fees and costs to be lawfully demanded by the Master in Equity Registrar Prothonotary keeper of the records or other officers of the said court, for or

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in respect of the several proceedings and matters in their respective offices in the said court, and also the amount of all fees and costs to be allowed in respect of all other matters at any time depending in the said court, and also for the government and conduct of the officers and ministers of the said court, and for regulating the admission of barristers and of attorneys solicitors and proctors to practise therein, and also the qualification of candidates to practise as barristers and as attorneys solicitors and proctors in the said court, and for regulating the examination or further or renewed examination of such candidates and the several departments of literature science and law in which respectively such candidates are to be examined, and for fixing the amount of fees and costs to be paid by them, and the mode of application of the same as to the said court shall seem meet; and such rules from time to time to repeal vary and alter as occasion may require: Provided that every such rule when so by such court made shall be by it sent to the Colonial Secretary of the said colony, and by him laid before the Legislative Council thereof without delay: And it shall be lawful for the said Legislative Council, at any time within one calendar month after the same may have been laid before such Council, to present an address to the Lieutenant-Governor of the said colony to disallow any such rule, who if he think fit shall disallow the same accordingly: And if after having been so laid before the said Legislative Council for such time no such address be presented, such rule shall be published in the *Government Gazette* of the said colony: And every such rule, save as hereinafter provided, shall take effect from the promulgation thereof by the said court, and shall have the same force and efficacy as if inserted in this Act unless disallowed as herein mentioned: Provided that no such rule relating to any fee to be taken in any office in any department of the said court, or to any costs to be paid, shall have any effect until after the same shall have lain for one calendar month upon the table of the Legislative Council and have been published in the *Government Gazette* as hereinbefore mentioned: Provided that a copy of every such rule shall, with all convenient despatch after the same has been published as aforesaid, be forwarded by the said Lieutenant-Governor to Her Majesty's Principal Secretary of State for the Colonies for Her Majesty's approval or disallowance thereof, as to Her Majesty shall seem meet:[a] Provided also, that all the rules and orders for regulating the process pleading and practice and other matters hereinbefore enumerated in use in the Supreme Court of New South Wales for the district of Port Phillip at the time of the commencement of this Act, shall continue and be in force in the said Supreme Court of the colony of Victoria until repealed by rules made by virtue of the provisions herein contained, except so far as any of them may be inconsistent with or repealed by the provisions of this Act."

AND WHEREAS it is expedient to repeal the said rules and to substitute others in lieu thereof: IT IS ORDERED that from and after the first day of February, which will be in the year of our Lord One thousand eight hundred and fifty-four, the rules of practice now

(a) The following rules were forwarded to and allowed by Her Majesty. See the *Government Gazette*, Nov. 28 1854, p. 2702.

in force in the Supreme Court of the Colony of Victoria shall be repealed, save and except those which relate to proceedings in insolvency[a]; and that instead thereof the following shall be substituted.[b] Provided that all actions, suits, and other proceedings then depending in the court shall be continued and concluded under the rules now in force. Reg. Gen. — 1 Feb. 1854.

Chapter I.—The Supreme Court.

1. That the Supreme Court of the Colony of Victoria be held in the Court House, in La Trobe street, or at such other place within the said colony as the judges of the said court shall direct, and at such times as the said judges shall appoint. Court House in La Trobe street.

Offices of the Supreme Court.

2. That the respective offices of the Master in Equity, Chief Commissioner of Insolvent Estates, Prothonotary, Taxing Officer, Sheriff, and Deputy Sheriff, be held in the said Supreme Court House, or at such other place as the said judges shall direct; and that all instruments and proceedings which by law or usage require to be enrolled, recorded, filed, or registered, in any of the said offices, shall be so enrolled, recorded, filed, or registered, in each of the said offices respectively, by the proper officers thereof. Offices of the Supreme Court.

3. That the proceedings of the court, in its several jurisdictions, be commenced, continued, and written in a clear, legible hand, on foolscap paper, of uniform size, and shall be distinguished as follows :— Proceedings.

In the Supreme Court of the Colony of Victoria.

As the case may be. { At Law. / In Equity. / In Insolvency. / In its Ecclesiastical Jurisdiction.

And that judgment rolls be written on parchment (27 inches by 9 inches).[c]

4. That all writs and process issued out of the various offices of the said court shall be tested in the name of the Chief Justice, and signed and sealed with the official seal of the said court, by the Master in Equity[d], Chief Commissioner of Insolvent Estates, Prothonotary, or Sheriff, as the case may require.[e] Testing of process.

(*a*) These rules (21 Aug. 1851, and 4 Sept. 1854) have been superseded by the rules under the "*Insolvency Statute* 1871," but may be still applicable in cases to which the latter rules do not extend, 34 Vict. No. 379 s. 13, *ante*, p. 1030.

(*b*) These rules, so far as they relate to civil actions, were repealed by "*The Common Law Practice Act* 1856," 19 Vict. No. 19 s. 2.

"The rules of the court are its servants, and not its masters, and may be modified according to circumstances."—Per Barry, J., in *In re Hodgson*, 5 A.J.R., 133; *In re Scott*, 1 W. & W. (L.), 7.

"There is no unbending rigidity in the rules of the court, and the court has a discretion to relieve or not as it thinks fit."—Per Molesworth, J., in *Learmonth* v. *Bailey*, 1 V.L.R. (Eq.), 195.

(*c*) As to the form and contents of the "Record for Trial" and of the "Record for Inquiry" at law, see the "*Common Law Procedure Statute* 1865," 28 Vict. No. 274 ss. 143, and 144, *ante*, p. 138.

(*d*) Or by the Acting Master in Equity, 36 Vict. No. 435, *ante*, p. 1699.

(*e*) As to the issue of judicial and other writs in actions at law, see the "*Common Law Procedure Statute* 1865," 28 Vict. No. 274 s. 83, *ante*, p. 125.

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Routine of Business of the Court.

Routine of business.

5. That there shall be four sittings before term in each year, for the assessment of damages and trial of causes, which shall be held in Melbourne, and called as follows :—

Nisi prius sittings.

First sittings to commence March first and end March fourteenth.

Second sittings to commence May first and end May fourteenth.

Third sittings to commence August first and end August fourteenth.

Fourth sittings to commence November first and end November fourteenth.

Provided that if the first or last day of either of the said sittings shall fall upon a Sunday, the same shall commence or end, as the case may be, on the Monday following.(a)

Terms.

6. That there shall be four terms in each year, which shall commence and end as follows :—

First term to commence March twenty-first and end April fourth.

Second term to commence May twenty-first and end June fourth.

Third term to commence August twenty-first and end September fourth.

Fourth term to commence November twenty-first and end December fourth.

Provided that if the first or last day of either of the said terms shall fall upon a Sunday, the same shall commence or end, as the case may be, on the Monday following.(b)

Time of holding criminal sessions.

7. That the criminal sessions of the court shall be held once, at least, in every month in the year, excepting January, on such days of the said month as may from time to time be appointed by the judges thereof.(c)

Nisi prius paper.

8. That a list of the causes for trial shall be made out by the Prothonotary one week before each *nisi prius* sittings; and when the number of causes for trial may render it necessary that two of the judges shall sit simultaneously, two separate cause lists shall be so made and published, and exhibited in the rooms of the associates of the judges.(d)

Court paper.

9. That on each day when the court sits in banco, there shall be a paper called the "Court Paper," in which shall be entered all matters set down for argument in banco, and shall distinguish the business, as it may relate to the Crown, or common law, equity, insolvency, or ecclesiastical jurisdiction of the said court, and the said paper shall be regularly called on every day, after the bar has been gone through, and the motions of course heard; and the Master in Equity, Chief Commissioner of Insolvent Estates, or Pro-

(a) This rule is virtually repealed by the provisions of sec. 78 of the "*Common Law Procedure Statute* 1865," *ante*, p. 123.

(b) This rule is virtually repealed by the provisions of ss. 76 and 80 of the "*Common Law Procedure Statute* 1865," *ante*, p. 123.

(c) This rule appears to be now of no effect, see The Judicature Act, 38 Vict. No. 502 s. 16, *ante*, p. 1150.

(d) See, however, the "*Common Law Procedure Statute* 1865," 28 Vict. No. 274 s. 146, *ante*, p. 139.

thonotary, as the case may be, shall attend in court, as the business relating to the several descriptions of business shall be respectively called on, and each shall have with him in court all the papers in his custody relating to each matter so called on. Reg. Gen. 1 Feb. 1856.

10. That during term no business shall be transacted in chambers, except such as is by the practice of the courts of Westminster usually transacted in chambers at that time, or as is by any Act of Parliament or of Council authorized, or as the necessity of the case may require, to be made the subject of application to a single judge; and on every Thursday in term the Crown business shall take precedence. Chamber business.

11. That the said court shall sit in banco, and in equity, every Thursday out of term, except during the recess, or unless the same shall be a holiday, in which case it shall sit on the Friday following; and when the court shall so sit in banco and in equity out of term, matters in its equity, insolvency, and ecclesiastical jurisdiction will be heard, and at the sitting and rising of the court motions strictly of course may be made. Banco day out of term.

12. That the court may give judgment in any case on any day upon which the court may sit in banco out of term, and every judgment shall be entered of record on the day of the month and year, whether in term or vacation, when signed, and shall not have relation to any other day: Provided that the court, or any judge, may order any judgment to be entered *nunc pro tunc*. Giving and signing judgment

13. That the officers in each of the said offices shall attend every day, except on holidays, from half-past nine o'clock in the forenoon, until half-past three o'clock in the afternoon: Provided that the offices shall be open to the public from ten o'clock in the forenoon to three o'clock in the afternoon only.(a) Office hours.

14. That the following days shall be kept as holidays at the said offices:—New Year's Day and the three following days, Good Friday, the Saturday following, and Easter Monday and Tuesday, Her Majesty's birthday (May 24th), the anniversary of the separation of the colony of Victoria from the colony of New South Wales (July the 1st), Christmas Day and the three following days: Provided that when any holiday falls on a Sunday, it shall be kept on the next day after such Sunday.(b) Holidays.

15. That from the twenty-third of December to the first of February no pleadings shall be delivered,(c) nor any other ordinary proceedings carried on in the said court, in any branch of its jurisdiction, nor shall any time run for the return of any process, or for pleading, or doing any act at law or in equity, during that period:(d) Provided that this rule will not prevent the issuing of any initiatory or mesne process, nor prevent the application for, or granting of, any writ of capias, ne exeat, or execution, injunction, habeas Recess.

(a) As to the office of the Prothonotary, see the "*Common Law Procedure Statute* 1865," s. 417, *ante*, p. 203.

(b) For the holidays kept at the present time, see the "*Common Law Procedure Statute* 1865," s. 80, *ante*, p. 124.

(c) As to the delivery of pleadings at law, &c., during vacation, see the "*Common Law Procedure Statute* 1865," s. 17, *ante*, p. 112.

(d) By Reg. Gen., 2nd October 1857, *post*, p. 2758, appeals in equity may be heard before the Full Court up to and inclusive of the 24th December.

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corpus, prohibition, sequestration, or other writ or process of a like nature, rendered necessary by the special exigency of any particular case.(a)

CHAPTER II.—BARRISTERS, ATTORNEYS, SOLICITORS, PROCTORS, AND CONVEYANCERS, AND CANDIDATES FOR ADMISSION IN EITHER OF THOSE BRANCHES.

[*Repealed by "Regulæ Generales" of December 23rd* 1865.]

CHAPTER III.—PROCEEDINGS OF THE COURT IN ITS COMMON LAW JURISDICTION.

[*Repealed by "The Common Law Practice Act* 1856," 19 *Vict. No.* 19 *s.* 2.]

CHAPTER IV.—PRACTICE AT COMMON LAW.

[*Repealed by "The Common Law Practice Act* 1856," 19 *Vict. No.* 19 *s.* 2.]

CHAPTER V.—EQUITY PLEADING.

1. That the practice and manner of proceedings in Her Majesty's High Court of Chancery in England, in Trinity term, 1853, be adopted and followed, so far as the circumstances and condition of the colony shall require and admit, and so far as they may not be repugnant to or inconsistent with any act of council in force within the colony, or any rule now or hereafter to be made.(b)

Suit in equity commenced by bill with summons indorsed.

2. That every suit in equity shall be commenced by a bill in writing, on the back whereof shall be printed or written a summons in the form or to the effect of the form in the Schedule to these Rules annexed; and such summons shall be sealed by the Master in Equity before the same is served.(c)

Summons.

3. That every writ of summons indorsed on a bill in equity shall be in the form or to the effect of that in the Schedule to these Rules annexed. It shall contain the name of every plaintiff and defendant, be tested in the name of the Chief Justice, be sealed, bear date the day it is sealed, contain the true name and place of business of the plaintiff, or one of them if there be more than

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(a) This rule relates only to ordinary proceedings properly in the court, such as the instances given. It relates not to privileges given, if something be done within time. It has never been held to apply to orders for foreclosure. After liberty is given to appeal to the Privy Council, the cause ceases, as to the appeal, to be a cause in court, and this rule therefore cannot affect the three months' restriction in 15 Vict. No. 10 s. 33.—*Johnson* v. *Colclough*, 5 A.J.R., 66, 131.

(b) As to Order 33, of May 1845, relating to service of the Bill upon defendants out of the jurisdiction, see *Loring* v. *Brown*, 3 W. W. & a'B. (Eq.), 94; *Buttner* v. *Hallenstein*, 3 V.R. (Eq.), 25. As to Order 16 subs. 48, of the same date, relating to the appointment of a guardian, see *Bouchier* v. *Dawson*, 2 V.R. (Eq.), 24.

(c) If the original bill bearing the seal of the court be in writing, there is nothing to prevent the service upon the defendant of printed copies. —*Dancker* v. *Porter*, 1 W. & W. (Eq.), 313, at p. 332.

It is unnecessary to set out the plaintiff's residence, *Cain* v. *Chissel*, V.L.T., 143.

one, if he or they proceed in person, or of his or their solicitor if by solicitor; and the writ of subpœna to appear and answer heretofore in use is abolished. Reg. Gen. — 1 Feb. 1854.

4. That every writ of summons shall be in force for six months and no longer,(a) and no *alias* or *pluries* writ shall be allowed; and every writ shall be served personally, except in cases of substitution of service; and service of every writ of summons must be sworn to, otherwise the plaintiff shall not be at liberty to proceed in the suit. Duration service.

5. That if any defendant named in any writ of summons may not have been served therewith, the Master in Equity may, at any time before the expiration thereof, renew the same at the request of the plaintiff by writing thereon— Renewal.

"Renewed for six months, this day of in the year of our Lord One thousand eight hundred and "

and signing the same with his proper name and title, and affixing thereunto a seal; and such renewal may be made as often as occasion may require: and the writ when renewed shall have the same effect as an *alias* or *pluries*, and shall remain in force to prevent the operation of any Statute whereby the commencement of any suit may be limited, and for all other purposes be available from the date of the issuing of the original summons.

6. That every bill in equity shall be entitled, "In the Supreme Court of the Colony of Victoria, in Equity," and of the day and year on which the summons indorsed is sealed. And every bill shall, according as the nature of the case may require, set forth in a simple and compendious form, a narrative of the material facts and circumstances on which the plaintiff relies, being divided into separate paragraphs numbered consecutively, each containing, as near as may be, a distinct allegation. And every bill shall commence as in the form in the Schedule to these Rules annexed; and the formal address, and all charges, pretences, and specific interrogatories, and prayer for a receiver for subpœna, injunction, or other writ heretofore in use shall be abolished. And every such bill shall conclude with a general form of interrogatory, requiring the defendant to answer as if interrogated upon each paragraph; and if there be more than one defendant, shall state how many of such paragraphs each is so required to answer, and shall pray specifically the relief to which the plaintiff conceives himself entitled, and also for general relief. Bill.

7. That any one or more of the persons or parties hereinafter mentioned may commence a suit on behalf of himself or themselves, and all others having a common interest with him or them,(b) and proceed to obtain a decree of the court; and it shall not be compe- Parties plaintiffs.

(a) The period for which a writ of summons continues in force under this rule cannot be extended by the effect of an order for leave to serve the bill out of the jurisdiction.—*Young* v. *Dickson*, 4 W. W. & a'B. (Eq.), 56.

(b) In a general administration suit, one of several *cestuisque trust* cannot sue without either making all the others parties or suing on behalf of all. Where a bill was filed by one of several *cestuisque trust* against the trustees and one of the other *cestuisque trust*, an amendment was allowed at the hearing, by converting it into a suit on behalf of all the *cestuisque trust*, except the defendant.—*Fawkner* v. *Fawkner*, 1 A.J.R., 41; s.c. 1 V.R. (Eq.), 48.

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tent to any defendant in any suit to object to the omission of such others as parties in any of such cases :—

(I.) Any heir, specific or residuary devisee or legatee, or any creditor, seeking to obtain administration of the real or personal estate, or both, of a deceased person.

(II.) Any one of several "*cestuisque trust*" seeking an execution of the trusts in any deed or instrument.

(III.) Any one executor, administrator, or trustee, seeking an administration of an estate or execution of trusts, against any one legatee, next of kin,(a) or "*cestuisque trust.*"

(IV.) Any one of several persons seeking protection of property pending litigation, or exposed to waste.

And in any such case the court may, before, at, or after the hearing, order that any other person necessary to the suit be made a party, and make such order for placing the original and added parties on the same footing with regard to costs as it may deem fit : Provided that, in order to prevent multiplicity of suits, all persons who, according to the former practice of the court, would be necessary parties to the suit,(b) shall be served with notice of the decree, and after such notice such persons shall be bound by the proceedings as if they had been originally parties to the suit, and they may by leave obtained from a judge on summons attend the proceedings under the decree, or apply to the court that such decree be added to, varied, or altered.

Heir not a necessary party to a suit to execute the trusts of a will.

8. That in suits to execute the trusts of a will, it shall not be necessary to make the heir-at-law a party, unless the plaintiff desire to have the bill established against him.

One or more parties jointly and severally liable may be sued alone.

9. That in all cases in which a plaintiff has a joint and several demand against several persons, either as principals or sureties, it shall not be necessary to bring before the court as parties to the suit concerning such demand all the persons liable thereto ; but the plaintiff may proceed against any one or more of the parties severally liable.

Trustees to represent *cestuisque trust* who may by order be made trustees.

10. That in all suits concerning real or personal estates vested in trustees under a will, settlement, or otherwise, such trustees shall represent the persons beneficially interested in the same manner, and to the same extent, as executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estate : and in such cases it shall not be necessary to make the persons beneficially interested under the trusts parties to the suit : Provided that in any such case the court may, before, at, or after the hearing, order any or all of such persons to be made parties.(c)

(*a*) An administrator of the real estate of an intestate, who was also one of the next of kin, instituting a suit for general administration against the administrator of the personal estate, should make all the other next of kin parties thereto.—*Dryden* v. *Dryden*, 1 V.L.R. (Eq.), 4.

(*b*) These are only persons interested and within the jurisdiction.—*Fawkner* v. *Fawkner*, 1 A.J.R., 121 ; s.c. 1 V.R. (Eq.), 140.

(*c*) "This rule makes trustees represent beneficiaries as executors or administrators represent persons beneficially interested. But that, I apprehend, would be only as to liabilities, &c., resulting from acts of the testator or deceased, and perhaps themselves, not as to rights arising from proceedings against the beneficiaries." — Per Molesworth, J., in *Randall* v. *Mau*, 2 V.R. (Eq.), 158 ; s.c. 2 A.J.R., 81.

Where the object of a suit is to defeat a settlement, the trustees of the settlement do not, under this rule, represent the *cestuisque*

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Amendment and supplemental matter added by way of amendment.

11. That if the plaintiff be desirous to amend his bill, or if any facts or circumstances supplemental to the suit have occurred after service of the plaintiff's bill, the plaintiff may, if such occur before the time limited for answering have expired, amend his bill, as of course, any number of times, and without the necessity for any order for leave so to do; and shall thereupon, at his own cost, deliver a copy of the bill so amended to the defendant, and the bill so amended shall be deemed to be the original, and the defendant shall have the like time to demur, or plead to, or answer the same, as he had to demur, plead to, or answer that first delivered. And if the plaintiff be desirous to amend, or if such facts and circumstances may have occurred, or come to the knowledge of the plaintiff after the defendant have delivered his answer, the plaintiff may apply to a judge in chambers for leave to amend or to add and put in issue such supplemental matter; and if the judge shall so order, the plaintiff shall deliver to the defendant a copy of such amended bill or supplemental matter, on the back whereof shall be written the judge's order, and the defendant shall, within the time limited by the judge's order, demur, or plead to, or answer the same in the same manner as he is required to do with respect to the original bill. And no supplemental bill, or bill in the nature of a supplemental bill, shall be allowed.

Amending supplemental matter.

12. That if the plaintiff be desirous to amend the supplemental matter added to his bill, or if the defendant demur or plead thereto, and the plaintiff submit to such demurrer or plea, and desire to amend; or if such demurrer or plea be allowed by the court, and leave to amend such supplemental matter be given, the plaintiff may, within the time limited by the order of a judge or the court, amend such supplemental matter on payment of costs, and shall deliver a copy of the same so amended, together with the said order indorsed thereon, to the defendant within such time, or shall be deemed to have abandoned such order.[a]

Suit not to abate by death or marriage.

13. That should any plaintiff or defendant die or marry during the progress of any suit, or should any suit become abated or defective, by reason of some change or transmission of interest or liability, the suit shall not thereby abate. And it shall not be necessary to exhibit any bill or revivor, or supplemental bill[b] in the nature of a bill of revivor, to obtain an order to revive the suit, or a decree to carry on the proceedings, but the suit may be continued as hereinafter mentioned.

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trust. *In re Healey*, 2 V.R. (I. E. & M.), 34; s.c. 2 A.J.R., 132.

A testator, after charging his real estate with payment of his debts, devised all his property to trustees in trust for A for life, with remainder to her children as she should appoint, and in default of appointment to her heirs. This power never was exercised. In a suit against the trustees and tenant for life to establish a charge against the testator's real estate—*Held*, that the trustees, under this rule, would sufficiently represent all the *cestuisque trust*, but that one of the trustees being out of the jurisdiction and only a nominal defendant, all the *cestuisque trust* were necessary parties.—*Bullen* v. *Phelan*, 2 V.R. (Eq.), 11.

(*a*) An order allowing a demurrer, and giving liberty to the plaintiffs to amend their bill within a month, and providing that in default the bill should stand dismissed with costs, does not, in the absence of amendment within the time limited, *ipso facto* determine the suit so as to deprive the court of jurisdiction to entertain, after the time limited, a motion for substituted service of the amended bill.—*Learmonth* v. *Bailey*, 1 V.L.R. (Eq.), 191.

(*b*) Where the course provided by Rule 24, *post*, cannot be carried out by reason of the parties coming too late, they must proceed according to the practice prior to the rules, and file a supplemental bill, &c.—*Bank of Australasia* v. *Vans* 1 W. & W. (Eq.), 85.

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Death of one or more plaintiffs or defendants before hearing.

14. That if there be two or more plaintiffs or defendants, and one or more die before the roll is filed, the surviving plaintiff or defendant, as the case may be, may, within eight days next after the death of such plaintiff or defendant shall be known to him, apply by summons to a judge in chambers for leave to deliver a suggestion of such death to the other party; and if the judge shall so order, the surviving plaintiff or defendant may deliver the same, and the other party shall plead thereto within four days.

And if one or more die after such roll has been filed, the surviving plaintiff or defendant may, within the like time and with the like leave, enter such suggestion on the roll, and the defendant shall plead thereto within four days, and the suit shall proceed.

Death of sole or sole surviving plaintiff before hearing.

15. That if there be a sole or sole surviving plaintiff, and he die before the roll is filed, his heir or personal representative, or both, as the case may require, may, within three calendar months next after the death of such plaintiff shall be known to him, apply by summons to a judge in chambers for leave to be made plaintiff in the suit, instead of the plaintiff so deceased, and to deliver to the defendant a suggestion of the death of the plaintiff, and that he is such representative; and if the judge shall so order, such representative shall be made plaintiff in the suit, instead of the plaintiff so deceased, and may deliver such suggestion to the defendant, and the defendant shall plead thereto within four days. And if such sole or sole surviving plaintiff shall die after such roll has been filed, the heir or personal representative, or both, may, within the like time and with the like leave, enter such suggestion on the roll, and the defendant shall plead thereto within four days, and the suit shall proceed.

Death of sole or sole surviving defendant before hearing.

16. That if there be a sole or sole surviving defendant, and he die before the roll is filed, the plaintiff may, within three calendar months next after the death of such defendant shall be known to him, apply by summons to a judge in chambers for leave to make his heir or personal representative, or both, as the case may require, defendant in the cause, instead of the defendant so deceased, and to deliver to such representative a suggestion of the death of such defendant, and that he is such representative; and if the judge shall so order, such representative shall be made defendant in the suit instead of the defendant so deceased, and the plaintiff may deliver a suggestion to him, and he shall plead thereto within four days. And if such sole or sole surviving defendant shall die after such roll has been filed, the plaintiff may, within the like time and with the like leave, enter such suggestion on the roll, and the person so made defendant shall plead thereto within four days, and the suit shall proceed.

Death after decree.

17. That if one or more plaintiffs or defendants die after decree, the surviving plaintiff or defendant may apply by summons to a judge in chambers for leave to enter a suggestion of the death on the roll; and if the judge so order, the surviving plaintiff or defendant may enter such suggestion and proceed to prosecute the decree.

Death of sole surviving plaintiff after decree.

18. That if there be a sole surviving plaintiff, and he die after decree, the heir or personal representative of such plaintiff, as the

case may require, or the defendant may within three calendar months apply by summons to a judge in chambers for leave to enter a suggestion on the roll of the death of such plaintiff, and that a person named is the heir or personal representative of the plaintiff, and for leave to make such heir or personal representative a plaintiff in the suit instead of the plaintiff so deceased; and if the judge shall so order, such heir or personal representative, or the defendant, may enter such suggestion and proceed to execution on the decree. Reg. Gen. 1 Feb. 1854.

19. That if there be a sole surviving defendant, and he die after decree, the plaintiff or the personal representative, as the case may require, of such deceased defendant may, within three calendar months, apply by summons to a judge in chambers for leave to enter a suggestion on the roll of the death of such defendant, and that the person named therein is the personal representative of such defendant, and for leave to make such personal representative a defendant in the suit instead of the defendant so deceased; and if the judge shall so order, the plaintiff or such personal representative may enter such suggestion and proceed to execution on the decree. Death of sole surviving defendant after decree.

20. That if there be a female plaintiff, and she marry before the roll is filed, the defendant may within eight days next after her marriage apply by summons to a judge in chambers for leave to make a person named as her husband a co-plaintiff in the suit, and to deliver to her and to him a suggestion of the marriage and that such person is her husband; and if the judge shall so order, such person shall be made a co-plaintiff in the suit, and the defendant may deliver such suggestion to the plaintiffs, and they shall respectively plead thereto within four days. Marriage of female plaintiff before hearing.

And if a female plaintiff shall marry after such roll has been filed, the defendant may, within the like time and with the like leave, enter such suggestion on the roll, and the plaintiffs shall respectively plead thereto within four days, and the suit shall proceed.

21. That if there be a female defendant, and she marry before the roll is filed, the plaintiff may, within eight days next after her marriage, apply by summons to a judge in chambers for leave to make a person named as her husband a co-defendant in the suit, and to deliver to her and to him a suggestion of the marriage and that such person is her husband; and if the judge shall so order, such person shall be made a co-defendant in the suit, and the plaintiff may deliver such suggestion to the defendants, and they shall respectively plead thereto within four days. And if the female defendant shall marry after such roll has been filed, the plaintiff may within the like time and with the like leave enter such suggestion on the roll, and the defendants shall respectively plead thereto within four days, and the suit shall proceed. Marriage of female defendant before hearing.

22. That if there be a female plaintiff or defendant, and she marry after decree, the plaintiff or defendant may apply by summons to a judge in chambers for leave to enter on the roll a suggestion of her marriage with a person named, and if the judge so order, the plaintiff or defendant may enter such suggestion, and the person named therein shall be entitled to proceed with the suit with such female plaintiff or defendant, and liable to be proceeded against as if he had been originally named in the bill and summons. Marriage after decree.

Reg. Gen. 1 Feb. 1854.

Husband may enter suggestion of marriage.

23. That the husband of such female plaintiff or defendant may at any time apply by summons to a judge in chambers for leave to enter on the roll a suggestion of his marriage with her, and, if the judge shall so order, such person may enter such suggestion. But if no suggestion of marriage be entered on the roll, such female plaintiff or defendant may proceed with the suit in the name in which she commenced the suit and as a *feme sole*.

Revivor in case of change or transmission of interest or liability.

24. That should any suit become abated by reason of the change or transmission of interest or liability, the party entitled and desirous to revive the same may, within three calendar months, apply by summons to a judge in chambers for leave to revive the same, and to make the proper persons parties to such suit; and if the judge shall so order, the suit shall be revived, and the proper parties added and amendments made, and the suit shall proceed.(a)

Joinder of issue on suggestion.

25. That if any party to whom any such suggestion shall have been delivered, or against whom leave to enter a suggestion on the roll may have been given, shall not plead thereunto within the time limited for pleading, the same shall be deemed sufficient in law and in fact.

Cost of persons entering suggestion.

26. That in any case in which any judge may order that any representative of any deceased plaintiff or defendant, or any husband of any female plaintiff or defendant, or any other person made a party, deliver or enter a suggestion on the roll, or that he may be made a party to the suit, such representative, husband, or party shall be liable for all costs from the commencement of the suit, should a decree be pronounced against him; and entitled to recover all such costs should a decree be pronounced in his favor, unless the court or judge shall otherwise order.

No appearance necessary.

27. That it shall not be necessary for any defendant to enter an appearance in the said court in order to entitle him to demur, plead, or answer; or to apply to the court or judge; nor for any plaintiff to enter an appearance for the defendant to entitle him to obtain a decree against any defendant who may fail to answer within the time limited.

Demurrer.

28. That every demurrer shall set forth in the body thereof the grounds of demurrer, each in a separate paragraph and numbered.

Plea.

29. That every plea shall set forth in a simple and compendious manner the defence relied on by the defendant, and shall be signed by him, and sworn to by him before a commissioner of the Supreme Court for taking affidavits.

Answer.

30. That every answer shall, in brief and distinct terms and in separate paragraphs, each numbered consecutively, reply to each paragraph in the plaintiff's bill; and in addition thereto set forth in a short and compendious manner the matters of fact or equitable grounds upon which the defendant rests his defence. And if required by the plaintiff's bill, in cases where it may be of right so required,

(a) The jurisdiction of the judge to make an order, under this rule, to revive a suit which has abated by reason of change or transmission of interest on the birth of a child, cannot be exercised after the expiration of the three months; and where the parties come too late they are driven to what was the practice prior to these rules, and must proceed by supplemental bill.—*Bank of Australasia* v. *Vans*, 1 W. & W. (Eq.), 85 and 95.

shall have written thereon or annexed thereto a schedule particularising the nature, dates, and names of the parties to every instrument on which the defendant relies in support of such defence; and every answer shall be signed by each defendant and sworn to by him before a commissioner for taking affidavits. Reg. Gen. 1 Feb. 1854.

31. That no commission for taking the plea or answer of any defendant shall issue, unless upon application to a judge in chamber on summons, who may, if he see fit, direct that such commission do issue. Commission for taking plea or answer.

32. That every demurrer, plea, and answer shall have indorsed thereon the name and place of business of the defendant or defendants, if he or they plead in person, or of his or their solicitor, if by solicitor. Indorsement on every demurrer, plea, and answer.

33. That where any amendment has been made, or supplemental matter added or amended by order of the court or a judge, the same shall be delivered by the plaintiff to the defendant (a) within the time limited by the order, together with a copy of such order indorsed thereon, or the plaintiff, unless he shall have obtained further time for delivering the same, shall be taken to have abandoned such order. And the defendant shall deliver to the plaintiff his demurrer, plea, or answer to such amended bill, supplemental or amended supplemental matter, within the time limited by such order; or, unless he shall have obtained an enlargement of the time for delivering the same, the plaintiff may treat the matter contained in his bill, or the matter supplemental thereto, as the case may be, as confessed by the defendant. As to time of service order, and answer.

34. That the practice of excepting for want of an answer be abolished, and if any answer be deemed insufficient, the plaintiff may, within eight days next after such such insufficient answer may have been delivered, call upon the opposite party by summons to show cause before a judge in chambers why he should not deliver a full answer at his cost, and the summons shall specify the particulars in which such answer is insufficient, and the pleadings shall be produced before such judge, who shall make such order thereon as the justice of the case may require. Insufficient answer.

35. That the practice of excepting to pleadings and other matter for scandal or impertinence be abolished; and if any pleading or other matter contain any allegation, scandalous, impertinent, or irrelevant to the subject in issue, the party who would have been entitled to except thereto may, within eight days next after such pleading or other matter may have been delivered or filed, call upon the opposite party by summons to show cause before a judge in chambers why the allegations objected to should not be struck out at his cost; and such summons shall specify the allegations excepted to, designating each as beginning at a word named in a folio in a certain paragraph, numbered and ending at a word named in a folio in the same or another certain paragraph numbered: and the pleading or other matter containing such allegation shall be produced before such judge, who shall make such order thereon as the justice of the case may require. Exceptions for scandal or impertinence abolished —to be disposed of by summons.

36. That no replication or subpœna to rejoin be necessary; and if no amendment be made in the plaintiff's bill, or supplemental Replication abolished. Issue joined.

(a) *Semble*, this rule does not require personal service of an amended bill.—*Learmonth* v. *Bailey*, 1 V.L.R. (Eq.), 191.

Reg. Gen. 1 Feb. 1854.

matter be added thereto, or no demurrer or plea be delivered, or exceptions taken to the defendant's answer within the time limited for taking the same, the suit shall be deemed to be at issue upon the delivery of such answer.

Chapter VI.—Equity Practice.

Person whose name is used as next friend of any infant and in any suit to sign a written authority.

1. That before the name of any person shall be used in any suit instituted in the said court as next friend or guardian *ad litem* of any infant or married woman, or other party, such person shall sign a written authority to the solicitor for that purpose, and such authority shall be filed in the office of the Master in Equity.(a)

No solicitor to act for plaintiff and defendant.

2. That no solicitor act in any suit instituted in the said court for plaintiff and defendant, or for any two or more defendants having adverse interests in the said suit.

Entry in equity suit book.

3. That at the time the summons in any suit in equity is sealed the master shall enter in a book to be kept in his office, and to be called the "Equity Suit Book," the names of the parties, the nature of the suit, and the time when the summons is sealed.

Pleadings to be delivered.

4. That all pleadings shall be delivered between the parties and no pleadings shall be filed.

Service of pleadings and notices in particular cases.

5. That where a party shall sue, or defend in person, and cannot be found at the place of residence or business indorsed by him upon his pleadings, all pleadings, notices, and other matters may be served on him by posting a copy of the same on a conspicuous part of the master's office.

Time for demurring, pleading, or answering.

6. That every defendant who resides in Melbourne, or within fifty miles thereof,(b) shall, within eight days, and every defendant who resides beyond that distance shall, within fourteen days next after the plaintiff's bill has been delivered to him, deliver to the plaintiff a demurrer or plea thereto. And if such defendant do not demur or plead, he shall, if he reside in Melbourne, or within fifty miles thereof, within three weeks, or if he reside beyond that distance within six weeks, next after such bill shall have been so delivered to him, deliver to the plaintiff an answer thereto.

Answer to be delivered within the time named when demurrer overruled.

7. That if any defendant demur, or plead to a plaintiff's bill, or amended bill, or supplemental, or amended supplemental matter, and such demurrer or plea be overruled,(c) or if any summons by

(a) This rule is merely intended for the protection of the *prochein ami*, not to supply any part of the process of the court, or to prohibit the *prochein ami* from suing.—*a'Beckett* v. *Robinson*, V.L.T., 19.

(b) Where a defendant resided and was served more than fifty miles from Melbourne, but the summons indorsed on the bill required an answer within twenty-one days, the court on motion by defendant set the summons and service aside.—*Howe* v. *Browne*, V.L.T., 104.

It is necessary for practitioners to exercise care and discretion in issuing summonses, and not to put defendants to inconvenience by giving a shorter time in the summons than they are entitled to.—*Ibid.*

(c) In all cases where there is an appeal the decision of the primary judge is held in abeyance until the judgment of the appellate court is delivered; and accordingly it is irregular to proceed to a hearing of a cause before an appeal from a judgment on demurrer is disposed of by the Full Court.—*Attorney-General* v. *The Mayor &c. of Emerald Hill*, 4 A.J.R., 135.

A plea having been overruled, the time for answering having elapsed, and the defendants not having obtained further time to answer, the plaintiff set the cause down as undefended. On motion to set aside the setting down as irregular—*Held*, that the obtaining time to answer is the privilege of the defendant, and not the duty of the plaintiff; that no time having been obtained by the defendants, the plaintiff might either set the cause down as undefended or apply for an attachment for want of an answer, and motion dismissed with costs.—*Attorney-General* v. *Prince of Wales Company*, 6 W. W. & a'B. (Eq.), 27.

the plaintiff calling for a full answer be allowed by the court or a judge, such defendant shall deliver his answer, or a full answer to the plaintiff, within the time named by the court or a judge; or, unless he shall have obtained an enlargement of time for delivering the same, the plaintiff may treat the matter contained in his bill, or matter supplemental thereto, as the case may be, as undefended by the defendant. Reg. Gen. 1 Feb. 1854.

8. That whenever any demurrer or plea is delivered, and the plaintiff intends to try the validity thereof, he shall make up a copy of the bill and demurrer, or bill and plea, as the case may be, book-wise, and the same shall be respectively called the "Demurrer Book" and "Plea Book," and he shall set down the same for argument within eight days after such demurrer or plea shall have been delivered; and if not so set down, the plaintiff will be held to have submitted to the demurrer or plea.(a) Demurrer or plea to be set down for argument within eight days.

9. That the plaintiff shall, within four days before any demurrer or plea is to be argued or spoken to, deliver a copy of the demurrer book or plea book to the associate of each of the judges. Demurrer book to be delivered.

10. That the practice of amending the defendant's copy of any bill or amended bill, or supplemental or amended supplemental matter, be abolished; and that in all cases where any bill is amended, or matter supplemental thereto is added or amended, the plaintiff shall deliver a fresh copy thereof to the defendant at his own cost, unless it shall be made to appear to the master on taxation that the amendment or addition of supplemental matter arose from disclosures made by the defendant's answer, not theretofore within the knowledge of the plaintiff, in which case the costs may abide the event of the suit. And every copy of such bill, or supplemental or amended supplemental matter, shall have written thereon a notice in the form or to the effect of that set forth in the Schedule to these Rules. Practice on amendment as to copies.

11. That where any defendant served with a bill fails to demur, plead, or answer within the time limited in the summons, the plaintiff may engross the bill with the summons indorsed thereon on parchment, and file the same in the office of the Master in Equity, and set the cause down for hearing on a day not less than eight days from the time of so filing the parchment roll. Undefended suits.

12. That when any undefended suit is set down for hearing, the plaintiff shall file an affidavit or affidavits(b) made by himself or any witness or witnesses, verifying the facts and circumstances set forth Hearing of undefended suits.

(a) Where a plaintiff did not set down a demurrer for argument within eight days after its delivery, an order was made *ex parte* that he should pay the costs of demurrer and suit.—*Fisher* v. *Jacomb*, 1 W. W. & a'B. (Eq.), 97.

The court has a discretion to allow a demurrer to be set down for argument after the expiry of the eight days, and after the making of an *ex parte* order allowing the demurrer. This rule does not deprive the court of its power to relieve from the rigid effect of lapse of time. *Ex parte* order allowing demurrer set aside.—*Smith* v. *Seal*, 3 V.R. (Eq.), 22; s.c. 3 A.J.R., 3.

(b) Such affidavit, as against non-defending parties, is as necessary, when some defendants answer, as if the suit were wholly undefended: and where there are several plaintiffs, they ought all to join in the affidavit, or assign in the affidavit made by some of them a reason why the others do not join.—*Evans* v. *Guthridge*, 2 W. & W. (Eq.), 83.

An affidavit verifying the bill as against a defendant, who has left the suit undefended, is necessary, though no answer be required from such defendant, and such affidavit should generally be made by the plaintiff himself.—*Palmer* v. *Bronckhorst*, 1 W. W. & a'B. (Eq.), 61.

Where a suit is undefended the bill should be verified by all the plaintiffs.—*Ronald* v. *McPherson*, 1 A.J.R., 105.

Reg. Gen. 1 Feb. 1854.

in his bill, and the court may make such decree at the hearing as the justice of the case may require, which decree shall be absolute in the first instance.

Defended suits.

13. That within eight days after issue is joined in any suit in equity, the plaintiff shall engross on parchment the bill with the summons indorsed thereon, and the supplemental matter, if any, with the defendant's answer or further answer thereto, and shall file the same in the office of the Master in Equity, and the filing of the same shall be taken to be the setting down of the suit for taking evidence.

Setting down the suit for taking evidence notice.

14. That at the time the roll of the pleadings is filed in the office of the master, an entry thereof shall be made in the suit in the equity book, and the plaintiff shall on the same day give the defendant notice thereof, and that he has set the suit down for taking evidence on a day fourteen days from the time the suit has been set down.(a)

Taking evidence.

15. That at the day appointed for the examination of witnesses the parties shall appear before a judge of the said court, and the parties, if so required, and each witness, shall be examined, cross-examined, and re-examined, *vivâ voce*, upon oath, and the evidence of each shall be taken down in writing by the judge.(b) And all deeds, instruments, and papers given in evidence on either side shall be lodged with and retained by the master.(c) And the examination of parties and witnesses in each case shall be concluded at one sitting, or if not so concluded, the examination shall be adjourned from day to day until concluded, unless necessity compel a further adjournment; and either side may take copies of the deeds, instruments, and papers lodged with the master.

Giving answer in evidence.

16. That whatever the plaintiff intends to rely in support of his case on the defendant's answer, or on any part thereof, he shall tender the same in evidence at such examination, and, if admissible, the same shall be marked as exhibited in the cause.

Setting down cause for hearing.

17. That the plaintiff shall set down the suit to be heard upon the day in term set apart for equity business next after the expiration of eight days from the time of the conclusion of taking evidence in the suit, or upon the next day on which the court shall sit in equity out of term after the expiration of such time.

Mode of proceeding at the hearing.

18. That at the hearing of a suit in equity the junior counsel for the plaintiff shall open the pleadings, the junior counsel for the defendant shall open the answer, the judge who presided at the taking of the evidence shall read his notes of the evidence taken by him; the counsel for the plaintiff shall support the bill, the counsel for the defendant the defence, and the leading counsel for the

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(a) Upon a cause being called on for taking evidence some only of the defendants appeared. *Held*, that the defendants who appeared could not then require proof of the bill or notice of the setting down for taking evidence having been served on the defendants who did not appear, but that the plaintiff might go on at his own risk of being able to prove this when the cause came to a hearing.—*Honey* v. *Bucknall*, 6 W. W. & a'B. (Eq.), 327.

(b) As to the admissibility at the hearing of evidence not mentioned in the bill, or in an affidavit on motion for injunction, see *Brooks* v. *Bedford*, V.L.T., 101.

(c) The lodgment of exhibits in the master's office is only intended to preserve them until the hearing; and when that purpose is served the custody should terminate.—*Selwood* v. *Burstall*, 1 W. W. & a'B. (Eq.), 96.

plaintiff shall reply; and the court shall then, or at any other time, pronounce its decree, either interlocutory or final. Reg. Gen. 1 Feb. 1854.

19. That in any suit in the said court in which the matter involved, directly or incidentally, is of simple account capable of being ascertained by the pleadings or evidence, or by any statement of facts adduced at the hearing by consent, or verified by affidavit by leave of a judge, the court may make up and adjust the same, and declare the amount thereof and decree accordingly; and in such case it shall not be necessary to refer any such matter or account to the Master in Equity.(a) The court may take an account.

20. That whenever it shall appear to the court that certain persons are improperly joined as plaintiffs in any suit, yet that notwithstanding the conflict of interest between the co-plaintiffs, or want of interest in some, or the existence of some ground of defence affecting some or one of the plaintiffs, some or one of them are or is entitled to relief, the court shall not dismiss the suit on account of such misjoinder; but it may direct that proper amendments be made, so that the name or names of any one or more plaintiff or plaintiffs may be expunged from the record, or that any one or more may be treated as a defendant or defendants, and the remaining or other plaintiff or plaintiffs as if the only plaintiff or plaintiffs on the record; and modify the decree according to the special circumstances, and grant such relief as the nature of the case will allow. Misjoinder parties.

21. That every decree, decretal, or other order shall be drawn up by the Master in Equity on paper, as soon as possible after the same may have been pronounced; and any party(b) to the suit may take out the same, and may within eight days from the time the same is so taken out apply to the court that the same may be added to, altered, or varied.(c) Party may apply to add to, alter, or vary decree.

22. That where any reference is made to the Master in Equity, the party who has the carriage of the suit or order shall, within twelve days next after the day upon which the decree or order directing the reference was taken out by him, obtain an appointment from the master that all parties interested do attend before him on a day within eight days next after his having so taken out such decree or order; and in case such party shall fail so to do, such decree or order shall be deemed to be abandoned, unless the court or a judge shall otherwise order.(d) Reference to the master.

(a) For instances of account taken at the hearing, see *Taylor* v. *Southwood*, 1 W. & W. (Eq.), 29; *Bulling* v. *Bryant*, 1 W. & W. (Eq.), 121; *Douglass* v. *Simson*, 6 W. W. & a'B. (Eq.), 47.

"This rule is only intended to apply to the case of simple accounts where there are so few items contested between the parties that the court sees its way at once to arrive at a conclusion," per Molesworth, J., in *Taylor* v. *Southwood*, 1 W. & W. (Eq.), pp. 35, 36.

Quære, whether the rule applies to the case of a defendant who has not defended the suit.—*Tuckett* v. *Alexander*, 1 W. & W. (Eq.), 87.

Where the evidence was unsatisfactory and by no means conclusive, and not unlikely to be, at all events to a certain extent, rebutted, a decree for a specific sum in place of a decree for an account was refused.—*Ibid.*

(b) A defendant, being a creditor of the estate, was allowed, after long delay, on account of poverty, to take out the decree, and have the carriage of the suit.—*Palmer* v. *Palmer*, 5 A.J.R., 130.

(c) This relates only to cases in which a party insists that the master has not taken correctly the order of the court. Applications are, however, sometimes properly made about minutes, where it is supposed that the judge has overlooked something material in the evidence, or used words not conveying his real meaning, or omitted some direction necessary to carry out the main object of the decree.—*McKean* v. *Francis*, 5 A.J.R., 159; and see *Porteous* v. *Oddie*, 1 V.L.R. (Eq.), 148.

(d) As to delay in proceeding after decree, and as to this rule generally, see *Reeves* v. *Croyle*, 3 A.J.R., 15.

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Proceeding thereon.

23. That where such appointment shall have been obtained, the party obtaining the same shall serve all parties required to attend the master with a warrant setting forth the matters to be proceeded with, each written in a separate paragraph and numbered; and the master shall, for the purpose of reference, if he so think fit, issue the like *subpœna ad testificandum*, or *subpœna duces tecum*, as is issued at law to compel the attendance of any party or witness, and may examine the parties or their witnesses *vivâ voce* upon oath: and such examination shall be taken down by him in writing, in order that the same may be used by the court, if necessary; and the master shall proceed with the matter so referred to him from day to day, if he shall so direct, and the parties shall attend without any further warrant, and the master shall report thereon within twelve days after the last day of the examination of witnesses, or apply to the court for an enlargement of the time within which to make his report.

No minutes of decree necessary.

24. That no minutes of any decree, decretal, or other order shall be necessary, and no attendance upon the master to settle or draw up any such decree, decretal, or other order shall be allowed, unless the master especially require the same; but the master shall take a note of the judgment when the same is pronounced by the court or any judge, and draw up such decree,(a) decretal, or other order thereon.

Proving debts.

25. That in suits wherein proof of debts is directed to be made before the master, he may, if the claim be unopposed, receive proofs thereof on the affidavit of the claimant, or of any witness on his behalf, without any claim in writing.

And in every such case he shall indorse on the affidavit the allowance or disallowance of such claim.

Settling conveyances.

26. That whenever the master is ordered to settle any conveyance, and the parties differ about the same, a statement in writing of the required alterations shall be delivered by the party objecting to the draft to the party by whom the same was prepared, within eight days after service of notice of the leaving of such draft with the master.

Sale of land by auction.

27. That when it is ordered that any property be sold by the master, he may appoint an auctioneer who shall sell the same as directed, and be paid a percentage, or such sum as may be fixed by the master, and such auctioneer shall pay over to the master within three days after the receipt thereof any deposit which he may receive; and if required by the master verify by affidavit the acts which he may have done in respect of the sale.

Master's report or certificate.

28. That every report or certificate made by the Master in Equity shall be drawn up by him in a simple and compendious form, with a prefatory statement to this effect:—"In compliance with the decree (or decretal order or order) above written I report (or certify)," and without any other recital; and such report shall concisely state the conclusion at which the master may have arrived, without setting forth the evidence or reasons upon each point, and opposite to each

(a) Unless by consent, the court will not hear an appeal from a decree which is not drawn up. —*Waddell* v. *Patterson*, 1 W. & W. (Eq.), 57.

paragraph thereof shall be a reference to the documents or folio in the evidence upon which the conclusions arrived at is based, and every such report shall be annexed by the master to the decree, decretal, or other order directing the reference or inquiry. Reg. Gen. 1 Feb. 1854.

29. That when the master shall have made his report in any case he shall give notice to the parties interested[a] therein at least four days before he presents the same for confirmation, and any party to the suit may take a copy thereof; and the master shall upon the next day in term, or first day on which the court shall sit in equity out of term, after the expiration of such four days present his report for confirmation by the court; and thereupon any party to the suit may show cause against the confirmation thereof, or that the same should be amended, altered, or varied; and the court may confirm such report, or make such order respecting the same as the justice of the case may require. Confirming report.

30. That all applications for rehearing in any suit shall be by motion within sixteen days next after the decree shall have been pronounced. Rehearing.

31. That in every case in which the report of the master is confirmed and further directions are to be given, or where the equity has been reserved, the plaintiff or any party interested shall set the suit down for such further directions, or upon the equity reserved within sixteen days from the time when such report shall have been so confirmed. Further directions.

32. That whenever in any suit any disputed issue of fact may arise cognizable properly by a jury, the court may, with or without the consent of the parties, order that the same be tried by a jury of four or twelve special jurors; and thereupon may direct that a case be made, and that one or more issue or issues of fact be raised; and the case so stated shall be engrossed on parchment together with the said order of the court; and the roll shall be filed with the Prothonotary, the case set down and tried in the same manner as any action at law; and after the case is tried the associate of the judge who tries the case shall enter thereon the verdict of the jury, and return the roll into the office of the Prothonotary; and if no rule *nisi* for a new trial be granted, or if such rule *nisi* having been granted the same be discharged, the Prothonotary shall upon the fifth day of the term next ensuing, or upon the day after such rule shall have been discharged, as the case may be, transmit the roll to the Master in Equity; and the master shall file the same with the other proceedings in the suit, and produce the same in court on the next equity day in term, or the first day on which the court shall sit in equity out of term; and the court shall make such order thereon as the justice of the case may require. Trial by jury.

33. That if at the expiration of sixteen days from the time of pronouncing any decree, decretal, or other order, no application be made to add to, alter, or vary the same, the Master in Equity shall cause such decree, decretal, or other order to be engrossed upon the roll, which shall have the like effect as enrolling the same. Decree engrossed on roll.

(a) *Semble*, that in all cases where creditors come in, in the master's office, they are entitled to notice of the intended presentation of the report for confirmation.—*Clough* v. *Gray*, 1 W. & W. (Eq.), 308.

Reg. Gen. 1 Feb. 1856.

Bill dismissed for want of prosecution.

34. That if any plaintiff in any suit fail to set the suit down for the examination of witnesses within one month after issue joined, or to set the suit down for hearing within one month after the examination of witnesses is concluded, the defendant may apply to the court that the bill be dismissed for want of prosecution, and, unless sufficient cause be shown, the court shall order accordingly.(a)

Common injunction.

35. That no injunction to stay proceedings at law shall be granted as of course for default of answer, but shall be granted only on the equitable grounds disclosed by the affidavits in support of the same. And every such injunction when granted shall be drawn up to stay proceedings, or to stay trial and all further proceedings, or to stay entering up judgment, or to stay issuing execution thereon, as to the court or judge granting the same shall seem meet.

Injunction *ne exeat* receiver.

36. That injunctions, either to stay proceedings at law, or to stay waste, or for any other purpose, writs of *ne exeat colonia*, or application for a receiver, may be granted by the court or a judge upon interlocutory application supported by affidavit, although not prayed by the plaintiff's bill.

Petitions abolished.

37. That proceeding by petition be abolished in all cases except where expressly required by Act of Parliament or of Council; and that the same relief which has hitherto been obtained by petition, may be in future obtained by motion or summons before a judge in chambers.

Guardian *ad litem*.

38. That when a guardian *ad litem* is appointed, the presence of the infant or guardian in chambers shall not be hereafter required.

Decree and order to be executed as at law.

39. That every decree, decretal, or other order of the court or any judge in the equity jurisdiction of the said court, shall be carried into execution in the same manner as at law.(b)

Orders may be enforced for and against parties by the same process as if parties.

40. That every person not originally a party to the suit, who may have been served with notice of any decree, decretal, or other order made therein, and who may have come in under the same to take the benefit thereof, or in whose favor a decree or order may have been made, shall be entitled to enforce obedience to the same by the like process as if he had been originally a party to the suit; and every person not being a party in any suit against whom obedience to any such decree, decretal, or other order may be enforced, shall be liable to the same process for enforcing obedience to the same as if he were a party to the suit.(c)

Duties discharged by serjeant-at-arms in England to be discharged by

41. That all duties discharged in the High Court of Chancery in England, in respect of process issued out of the said court or otherwise by a serjeant-at-arms, shall be discharged within the

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(a) A defendant gave notice of motion to dismiss for want of prosecution. Plaintiff, before this motion came on, set down the cause, and gave defendant notice of the step. Defendant moved to dismiss and mentioned to the court that the cause had been set down since the notice to dismiss. Plaintiff did not appear on the motion to dismiss, and the cause was dismissed. On motion by plaintiff to reinstate, and that defendant should pay the costs—*Held*, that the defendant was not, after learning that the cause was set down, bound to call the attention of the court to that fact, nor bound to suit his motion to it; that he was regular in what he did; and that the bill was rightly dismissed. However, under the circumstances, the bill was reinstated on terms of plaintiff paying costs both of motion to dismiss and of the motion to reinstate.—*Thompson* v. *Tullidge*, 1 W. & W. (Eq.), 108.

(b) The rules do not abolish the power of arrest under a *subpœna* for costs, and the court will still issue an attachment for their non-payment.—*Blake* v. *Watson*, 1 W. & W. (Eq.), 139.

(c) See *Royce* v. *Parker*, 1 W. & W. (Eq.), 267.

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colony of Victoria by the sheriff[a] and all process which in England would be directed to a serjeant-at-arms, shall accordingly in this court be directed to and executed by such sheriff: and the sheriff may receive in respect of such duties, and upon the execution of such process, the fees set forth in the Schedule to these Rules annexed.

Sheriff of Victoria, and process to be directed to him accordingly, and to receive fees in schedule.

42. That the sheriff shall bring to the bar of the court every person arrested upon any writ of attachment issuing out of the said court in its equitable jurisdiction, on the next day in term, or on the next day on which the court shall sit in equity out of term, next after such arrest, or as soon afterwards as possible;[b] and every such person and his property shall be dealt with by imprisonment and sequestration, in like manner as persons and their property are dealt with when brought to the bar of the High Court of Chancery in England by a serjeant-at-arms for the like cause.

Persons arrested to be brought to bar of the court on the first equity day after the arrest.

Persons arrested and their property to be dealt with as in England.

43. That any party required by any decree, decretal, or other order to perform any act shall, upon being served with a copy of such decree, decretal, or other order, perform such act, or be liable to an attachment for non-performance of the same.[c]

Party served with decree bound to obey, or liable to be attached.

44. That every order or decree requiring any party to do an act thereby ordered shall state the time (after service of such decree or order) within which the act is to be done, and a copy of the order or decree shall be served upon the party required to obey the same.

Orders for performance of acts to contain a limitation of time.

45. That no writ of attachment with proclamations, nor any writ of rebellion, be hereafter issued for the purpose of compelling obedience to any process, order, or decree of the court.

No attachment with proclamations nor writ of rebellion to be issued.

46. That whenever in any case the sheriff shall have returned *non est inventus* to an attachment, the party suing out the same may apply to a judge in chambers for leave to issue a writ of sequestration, and such application shall be supported by an affidavit setting forth that due diligence has been used, and in what manner, in endeavoring to arrest the party named in the writ.

On return of *non est inventus* writ of sequestration.

47. That if any party who by any decree of the court is ordered to deliver possession of any lands, tenements, or hereditaments within a time limited shall after service of such decree refuse or neglect to obey the same, the party obtaining such decree may apply to a judge in chambers for leave to issue an *habere facias possessionem*, who may, if sufficient cause be shown, direct that such writ do issue.

Party obtaining a decree for possession of lands may obtain an *habere facias possessionem*.

48. That every receiver in any suit in the said court, and every guardian appointed for the maintenance of any infant, and every committee appointed of the person and estate of any person of unsound mind, shall before the first day in the first and third term in each year make up and pass before the Master in Equity the

Receivers, guardians and committees to account half-yearly.

(*a*) See *Evans* v. *Guthridge*, 1 W. W. & a'B. (Eq.), 49; and *Attorney-General* v. *Bentley*, 6 W. W. & a'B. (Eq.), 176.

(*b*) If a writ of attachment for non-payment of costs in a suit in equity direct the sheriff to bring up the person to be arrested, on a day certain or the next day after the arrest, on which the court should sit, without going on to say, "or as soon afterwards as possible," a re-arrest in case of escape cannot be made after such day.—*In re Wall*, 1 V.L.R. (L.), 246; and see *Wall* v. *Hooper*, 1 V.L.R. (Eq.), 185; see as to this rule *a'Beckett* v. *Robinson*, V.L.T., 19.

(*c*) *Semble*, that payment of costs may be enforced under this rule, although no time is fixed by the original order, if a time within which payment is to be made be fixed by a subsequent order.—*Pokorney* v. *Ditchburne*, 1 V.R. (Eq.), 16.

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accounts of the estate in which he has undertaken the management or administration, or of the disbursement of the funds allotted for the maintenance of such infant, up to the last day of the previous half-year ending on the 31st day of December and the 30th day of June, as the case may be: and shall present to the master a schedule, which shall set forth a true account of all moneys received, the times when and the persons from whom the same may have been received, the amounts so received, how the same may have been disbursed, and how and what portion thereof is retained by each; and the master shall certify at the foot of such schedule according to the circumstances of each particular case.

Present account to the court.

49. That every such receiver, guardian, or committee shall, upon the first day of the first and third term in each year, present to the court the schedule of his accounts, passed by the Master in Equity, or account for his not presenting the same; and the court shall make such order thereon as shall seem meet.

Practice in lunacy.

50. That the practice in lunacy proceedings shall be conducted as is provided for the conduct of proceedings in equity, as nearly as circumstances will admit.

Commission in lunacy.

51. That every commission in lunacy shall be directed to one commissioner only, who shall be a barrister-at-law of three years' standing at the least; and such commissioner may (if the court so direct) be assisted by a physician or surgeon as his assessor.

Chapter VII.—Practice in the Judges' Chambers.

Business taken by judges in rotation.

1. That the ordinary chamber business shall be disposed of by one of the judges in rotation (as may be agreed upon by them) for one week, of which due notice shall be given on Saturday before noon; and during the week so appointed no ordinary chamber business will be taken by any other of the judges: Provided that application for writs of *capias*, *ne exeat*, *habeas corpus*, injunctions, and other writs of special exigency, may be made at any time to any of the judges.

Summons. Requisites.

2. That every judge's summons shall be numbered as issued, and heard in the order in which it is taken out; and shall set forth the grounds (each written in a separate paragraph and numbered) upon which the application is made, and shall be signed by the judge's associate.

Service. Stay of proceedings.

3. That every summons shall be served before two of the clock of the day previous to its being made attendable, and returnable peremptorily in the first instance, and shall operate as a stay of proceedings from the hour at which it is attendable: Provided that it shall be lawful for any judge, if under special circumstances he shall see fit, to order that any such summons operate as a stay of proceedings from the time of service, when it shall be drawn up accordingly and signed by such judge.

Affidavit lodged with associate, and filed by him.

4. That the original affidavit upon which it is proposed to support any summons shall be lodged with the associate at the time of his issuing the same, and the fee for filing such affidavit paid to him; and a copy of every such affidavit shall be served together with the summons; and no supplemental affidavit shall be read by the

party who takes out the summons without the leave of the judge before whom the same is returnable. Reg. Gen. 1 Feb. 1854.

5. That it shall not be necessary to verify by affidavit any pleading, summons, writ, or other process of the court, or any other document, or any copy of either used before a judge, unless the judge, at the hearing of the summons, shall so desire. Verification of documents.

6. That the original of every affidavit used in showing cause against any summons shall be lodged with, and the fee for filing the same to be paid to the associate, before the same may be read; and after every summons has been disposed of, all the affidavits used on each side shall be filed by the associate in the proper office of the court. Affidavits to be used in showing cause to be lodged with associate.

7. That all objections in point of form or of a technical nature shall be taken previous to the discussion of the merits; and if not then taken shall be held to have been waived. And the judge before whom any summons shall be heard shall have power to award costs at his discretion to either party or to withhold the same, or to make such other order respecting the same as to him shall seem meet. Technical objections. Costs.

8. That whenever any summons shall be dismissed on a preliminary objection no costs shall be allowed. Preliminary objections. Costs.

9. That the party who may succeed on any summons shall take out the order thereon within twenty-four hours after judgment thereon, or lose the benefit thereof: Provided that if such successful party do not within twenty-four hours take out such order it shall be lawful for the unsuccessful party to take out the order within twenty-four hours next ensuing. Order, when and by whom taken out.

10. That when any order is drawn up on a consent, a copy thereof, if not indorsed upon the summons, must be lodged with the associate by the party applying for the order, and filed by the associate in the usual way. Consent order.

11. That either party intending to appear by counsel on a judge's summons shall, before four o'clock of the day previous to that on which the summons is attendable, give notice to the other party of his intention so to do. Notice of attendance by counsel.

Chapter VIII.—Ecclesiastical Rules.

[*Repealed by Regulæ Generales, 23rd June* 1873, post, *p.* 2795.]

Chapter IX.—Sheriffs' Rules.

1. That the following rules be those to regulate the proceedings of the sheriff and deputy sheriffs in the various circuit districts, as far as the same are applicable to the latter, and shall be held in such cases to apply to every such deputy sheriff, without his being specially named. Sheriff and deputy sheriff.

2. That the sheriff or deputy sheriff shall be in constant attendance upon the court; and when both courts are sitting one or the Duties of the sheriff respecting the court.

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other shall attend in each. It shall be the duty of the sheriff to see that the court and the various offices are maintained in a clean and efficient state, and that order and decorum are observed in the court and its precincts.

Execution of process.

3. That the sheriff shall execute every writ, order, and process issued out of the court in any branch of its jurisdiction directed to him to be executed, within one hundred miles of Melbourne, except where the same may have to be executed within the limits of a proclaimed circuit district; and within such limits every such writ, order, and process shall be executed by him or by the deputy sheriff of such circuit district; and beyond the distance of one hundred miles from Melbourne, and without such limits, the same shall be executed as the court or judge shall direct. And every writ shall be executed, according to the exigency thereof, with all convenient diligence, whether the same be made returnable immediately or not.

Portions of the property sold first.

4. That in cases where the property, either real or personal, of any party shall be taken in execution, such party may point out what portion thereof he will have sold first, and the portion so pointed out shall be sold first.

Personal property to be sold first.

5. That in all cases where the sheriff shall take in execution both real and personal estate belonging to the same party, he shall, unless the party otherwise desire, cause the personal estate to be first sold; and in case the proceeds be not sufficient to satisfy the execution, he shall then sell the real estate.

Personal property sold on sixth day.

6. That where personal property is taken in execution by the sheriff, he shall cause the same to be sold upon the sixth day after the levy thereon made, unless the court or judge shall otherwise order, or unless the same shall fall upon a Sunday, and in such case upon the day following.

Levy on real estate.

7. That when the sheriff takes in execution any real estate, the mode of proceeding shall be that he do cause his bailiff to go upon the land, and (if any party be in occupation thereof) exhibit to any person thereon his writ, and affix upon the most public part of such land, and also in the most public thoroughfare nearest thereto, a notice of the intention of the sheriff to cause the same to be sold after the expiration of one month;(a) and he shall advertise in the *Government Gazette*, and in one newspaper published in Melbourne, once in each of four consecutive weeks, his intention to sell the land after the expiration of one month, unless the debt be sooner paid.

Real property to be sold after the expiration of one month.

8. That where real estate shall be taken in execution by the sheriff, he shall cause the same to be sold after the expiration of one month,(a) unless the court or a judge shall otherwise order.

Notice of sale.

9. That where the sheriff intends to put up for sale any property taken in execution in any town in which a public newspaper is printed, or within twenty miles thereof, he shall cause a notice of the time and place, and particulars of the sale, to be given by advertisement in one such newspaper; and in all other cases shall cause

(a) *Quære*, whether evidence is necessary of the sheriff's having given a month's notice before sale.—*Dreverman* v. *Doherty*, 1 A.J.R., 7.

such notice to be given by affixing the same on the premises, and also in the most public thoroughfares nearest to the intended place of sale. Reg. Gen. 1 Feb. 1854.

10. That in all cases the sheriff shall cause any property taken in execution to be sold (according as he may deem it most advantageous) at the place of levy or elsewhere. Sale at place of levy.

11. That if it shall be made to appear to the satisfaction of the court or a judge that it would be advantageous that the party whose property is taken in execution were allowed to make sale thereof in his own name, by auction or private contract, the court or such judge may order that such property be so sold under the superintendence of the sheriff or his bailiff, and at the same time enlarge, if necessary, the return of the writ of execution. Sale may be made in name of the party.

12. That where the sheriff shall, by virtue of any writ to him directed, receive any moneys, he shall pay them on demand to the party entitled to receive the same or his attorney (deducting all lawful charges therefrom), whether such writ be then returnable or not, unless he shall have received from some person claiming to be interested therein notice to retain the same. Sheriff to pay moneys received.

13. That when the sheriff shall, by virtue of any writ to him directed, receive any moneys, and shall have been served with notice by any person claiming to be interested therein, not to pay over the same, the sheriff may retain such moneys in his hands, to abide the order of the court or a judge thereon; and if no application be made by the party giving such notice to the court or a judge within four days next after the date of such notice, the sheriff may pay over such moneys in pursuance of the writ, without regard to such notice so received by him as aforesaid. Notice to sheriff not to pay money to execution creditor.

14. That all writs of execution be tested in the name of the Chief Justice, on the day on which the same are sued out, and be made returnable either in term time or vacation, and within two months from the day of issuing the same; and the amount of debt and costs actually due and to be levied shall be indorsed thereon; and the sheriff or his deputy shall, upon the receipt of such writ, indorse thereon the day of the month and the year wherein he receives the same. And every writ shall, within fourteen days next after the return day thereof, be returned by the sheriff into the office of the Prothonotary, with a return indorsed thereon, or in a schedule annexed thereto, of what he shall have done in the premises. And when any writ is returned, the officer with whom the same is filed shall indorse thereon the day of the month and year wherein the same is so filed. Writs of execution. Return.

15. That the sheriff shall file with every writ, when the same is returned by him into the office of the Prothonotary, a schedule signed by him, setting forth true particulars of the costs incurred in the execution of such writ; and either party affected by the writ may call upon the sheriff by summons to show cause before a judge why such particulars should not be taxed by the proper officer of the court, and the judge may order accordingly; and if such particulars be reduced on taxation by one-sixth or more, the sum so taxed off shall be paid by the sheriff to the party entitled to receive the same, together with the costs of taxation. Cost of execution.

Reg. Gen. 1 Feb. 1854.

Suspension of execution.

16. That the sheriff shall not suspend the execution of any writ or process directed to him, except upon an absolute order in writing to that effect lodged with him by the person entitled to the benefit of the same, or his attorney or his agent. And such person may at any time afterwards withdraw such order, and lodge with the sheriff a written instruction to execute the said writ or process.

Judge's order in vacation to enforce performance of duty.

17. That where the sheriff shall not execute a return or writ directed to him, according to the exigency thereof, or shall not pay over money received, or deliver possession of premises taken by him, or bring in the body of a party he is directed to arrest or attach, or otherwise neglect or omit to perform any duty incumbent upon him, a judge's order may be obtained in vacation on summons, to enforce the performance of such duty.

Persons arrested to be lodged in nearest gaol.

18. That when any person shall be arrested by the sheriff on any civil process of the court, he shall be lodged in the gaol nearest to the place of his arrest, unless the court or judge shall otherwise order.

Costs of interpleader.

19. That where the sheriff may have applied to the court or a judge under the "*Interpleader Act*" and the court or judge be satisfied that his application was necessary and has been made in good faith, such rule or order as to payment of his costs by either of the parties interpleading may be made as to the court or judge may seem fit.

Sheriff to return.

20. That on or before the fifteenth day of every month the sheriff shall file in the office of the Prothonotary a return signed by him of all moneys received by him, or any of his deputies or officers, during the month immediately preceding, classified under the heads of fees and executions; and such return shall specify the name of the cause or party, the nature and date of the writ or process under which, or the account upon which the sum was demanded, paid, or levied, when such writ or process was lodged with him, the amount received under the same and when, the gross amount paid thereout for poundage or otherwise, the amount of net proceeds, and how and when the same has been disposed of or paid over.

Sheriff to file return of fines.

21. That the sheriff shall, on the same day, file an account in like manner, of all fines received during the same period, setting forth the amount received in detail from the several persons, and the process or other authority under which the same was in each case received, and for what offence respectively.

Deputy sheriffs may issue subpœnas.

22. That every deputy sheriff shall have power, and is hereby required to issue subpœnas *ad testificandum*, and subpœnas *duces tecum* in any case civil or criminal, to be tried in the circuit court holden within his district, or in any other circuit district, or in the Supreme Court in Melbourne, upon payment to him of the fees of right to be demanded; and every such subpœna shall be sealed by the deputy sheriff issuing the same, and every person served with any such subpœna shall be liable and subject to the like penalties for disobedience thereof as if the same had issued out of the Supreme Court.

CHAPTER X.—MISCELLANEOUS.[a]

Reg. Gen. 1 Feb. 1858.

1. That the registrar's office be held at No. 28, in William-street, in the city of Melbourne, or at such other place as the judges may direct. Registrar's office.

2. That in the registrar's office, all laws or ordinances, grants, deeds, and other instruments, which by law or usage may be required to be enrolled, recorded, or registered in the Supreme Court, shall be enrolled, recorded, or registered; and in the said office all estates of deceased intestates shall be collected, managed, and distributed by the registrar, as the court may direct. Duty of registrar.

3. That all acts which the Prothonotary is required to do may be done during his absence by the chief clerk or other person in that behalf appointed by the judges, and should the registrar of deeds obtain leave of absence or, by reason of sickness, or otherwise, become incapacitated for a time from discharging the duties of his office, the judges may appoint specially some other person, during the period of such leave of absence, or temporary incapacity, to act on his behalf. Chief clerk to act in absence of Prothonotary or registrar.

4–7. [*Repealed, save as to the number of words to be contained in a folio, by Reg. Gen.*, 13*th May* 1868, *rule* 5, post, 2782.]

7. That every folio shall contain ninety words. Folio.

8. That in any case in which any person may be apprehended, and held to bail, at law, by virtue of a writ of *capias ad respondendum*, or in equity by virtue of a writ of *ne exeat colonia*, the same may be done by order of any judge, obtained on the production of the proper affidavits, although no summons indorsed on a declaration or on a bill in equity be served, if the party making the application swear that he will, within four days after the party to be held to bail is in custody, deliver to him a declaration or bill in equity respecting the subject matter for which he has been arrested: and in case the party making such application fail to deliver within such four days such declaration or bill in equity, the party so arrested may apply to a judge in chambers for a supersedeas, and be discharged out of custody. *Capias* or *ne exeat* may be granted before summons or bill served.

9. That every affidavit to hold to bail be laid before a judge, by the attorney or solicitor of the party seeking the order, and every such order shall be in the form of the Schedule to these Rules annexed; and in case the judge shall refuse such order, he shall indorse upon the summons, "No Order," and initial the same, and in such case no second application shall be made to the same, or any other judge, whether on the same or other affidavits, without apprising him of the fact of such refusal. Order to hold to bail.

10. That in all cases where a party shall be required to give bail, such bail shall justify before the Master in Equity or Prothonotary, as the case may relate to proceedings in equity or at law, and not before a judge; and the party called on to give bail shall cause notice, containing the names and additions, the place of residence or business of such bail, to be delivered to the attorney of the opposite party forty-eight hours before the bail is to justify. And Bail.

(a) This chapter was held to apply to proceedings in the insolvency jurisdiction, under the previous Insolvency Act and Rules.—*In re Stephenson*, 1 W. & W. (I. E. & M.), 114.

Reg. Gen. 1 Feb. 1854.

when the parties or their attorneys appear before the master or Prothonotary in order that the bail may justify, the justification shall be conducted *vivâ voce* upon oath, and the master or Prothonotary shall decide on the sufficiency or insufficiency of such bail, and of the costs of justification or opposition, and the decision of the master or Prothonotary shall be final.

No attorney to act as bail.

11. No attorney or articled or other clerk to an attorney of the Supreme Court shall be bail for any party in any court without leave of a judge.(a)

Warrant of attorney and *cognovit actionem*.

12. That every warrant of attorney and *cognovit actionem* shall be executed in the presence of an attorney of the said court, not the attorney of the plaintiff, but expressly named by the defendant, and attending at his request to inform him of the nature and effect of such warrant of attorney or *cognovit actionem*, before the same is executed; and such attorney shall subscribe his name as a witness to the due execution thereof, and thereby declare himself to be attorney for the person executing the same, and state that he subscribes as such attorney.

Filing same.

13. That every warrant of attorney and *cognovit actionem* shall be filed in the office of the Prothonotary, in cases where the parties reside in Melbourne, or within fifty miles thereof, within eight days, and in all other cases within fourteen days after the execution thereof; and if not executed as hereinbefore provided, shall not be filed, and if not filed within such time, shall not be filed without the leave of a judge. And when any warrant of attorney is filed, the Prothonotary shall note on the back thereof the day it is filed, and enter in a book, to be called the "Warrant of Attorney Book," in a concise form—

The names of the parties.
The date of the instrument, sum secured, and when payable.
The penalty therein named; and
The name and place of business of the attorney before whom the same is executed; which book shall be indexed and numbered.

Affidavit of debt.

14. In all cases in which judgment shall have been entered up in pursuance of any warrant of attorney or *cognovit actionem*, the plaintiff, his agent, or attorney, shall, before he sue out execution thereon, file an affidavit setting forth the amount actually due and payable to the plaintiff under such judgment.

Setting down special cases in criminal matters.

15. That whenever a special case is made on the application of any prisoner or counsel for the opinion of the judges of the said court, the party at whose instance the same was granted shall set the same down for argument with the Prothonotary on a Thursday in term, and shall serve a copy thereof on the Crown Solicitor four days before the day of hearing.

Case reserved without application.

16. That when any such case shall have been made by any judge or court, without any application in that behalf, it shall be so set down for argument by the Prothonotary, who shall serve a copy thereof upon the Crown Solicitor in like manner.(b)

(a) A solicitor may become surety for his client in an administration bond.—*In re Paynter*, 3 W. W. & a'B. (I. E. & M.), 69.

(b) It is the duty of an attorney for a prisoner to have a case which has been reserved for the Supreme Court set down for trial.—*Williamson v. Pretty*, V.L.T., 21.

17. That the Crown Solicitor shall, when so served with such special case, instruct Her Majesty's Attorney-General or Solicitor-General, or Crown Prosecutor for the district from which the case may have been sent (if made by any court of general sessions) to appear upon the hearing thereof. Reg. Gen. 1 Feb. 1854. Crown Solicitor to instruct Her Majesty's Attorney-General, or Crown Prosecutor.

FOREIGN ATTACHMENT.

18. That every writ of foreign attachment shall be issued out of the office of the Prothonotary, and every such writ shall be in the form or to the effect prescribed in the Schedule to these Rules annexed.(a) Writ to be issued in same manner as other process.

19. That every writ shall have written under, or annexed thereto, a notice in the form or to the effect prescribed in the said Schedule.(a) Notice to be annexed thereto.

20. That at the time of the service of every such writ, a copy of the said notice shall be left, together with a copy of the said writ, with the party or parties to be served therewith, or at his or their then or last usual place of abode, as the case may be.(a) (b) Mode of service.

21. That the several other forms set forth in the said Schedule shall be used, when required, in proceedings under the Act intituled, "An Act to consolidate and amend the laws relating to actions against persons absent from the colony, and against persons sued as joint contractors."(a) Forms in schedule to be used when required.

22. That any party may be at liberty to make searches in the office of the Master in Equity, Prothonotary, Sheriff, or Registrar of the Supreme Court, and in the Insolvent Court, at any time within the hours of business, on any day on which such office may be open, upon payment of the ordinary fees. Searches.

23. That the forms in the Schedules to these Rules annexed be adopted with such modifications as the circumstances of the case may require; but nothing herein contained shall render it erroneous or irregular to depart from the letter of such forms, so long as the subject is expressed without prolixity. Schedules of forms.

24. That in the foregoing Rules, words importing the "singular number" shall include the "plural number," and the reverse; words importing the masculine gender shall include "females;" the word "party" shall include "a body politic or corporate;" the word "affidavit" shall include "affirmation;" the word "receiver" shall include "consignee and manager;" and when time is measured by days, the first shall be reckoned inclusive, the last exclusive; when by a month, a lunar month shall be intended. Interpretation clause.

25. That when, in the computation of time, any party to any action or suit, or other proceeding, or any officer of the said court, or other person, is directed to do any act upon any day, and such day shall fall upon a Sunday or holiday, such act, if required to be done during term, shall be done on the day before, and if out of term, on the day after such Sunday or holiday. Computation of time.

(a) See, however, 28 Vict. No. 274 s. 214, "*Common Law Procedure Statute* 1865," *ante*, p. 157, and Schedules 22, 23 and 24 thereto, *ante*, pp. 216 and 217.

(b) This rule applies exclusively to writ of foreign attachment.—*Simpson v. Goold*, 1 W. & W. (Eq.), 245.

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Amendment generally.

26. That the court, or any judge, as the case may be, shall have power to amend any writ,[a] pleading, affidavit,[b] jurat, or title of affidavit, notice of motion, judge's summons, rule *nisi* or absolute, precipe, roll, judge's order, decree, interlocutory order, or decretal order, or other process or proceeding[c] in any branch of the jurisdiction of the court used before such court or judge in any matters that shall appear to the said court or judge not likely to mislead the opposite party on any point essential to the merits of the case, and to make such order for the postponement or further hearing of the cause or matter as may by him be deemed necessary, and to award such reasonable costs of such amendment as to the said court or judge shall seem meet.

These rules (9 June 1854) repealed by 22 Vict. No. 86 s. 54. (d)

27. As to schedules of fines and recognizances made out by associates and filed.

28. As to writs of execution to be issued thereon.

29. Sheriff to cause writs to be executed.

30. Schedules and writs to be read on first day of ensuing term.

CHAPTER XI.—COSTS.[e]

Costs.

1. That the scale of fees, costs, and charges set forth in the Schedule to these Rules annexed shall be those established, so far as the same can be applied, and the proper officers shall tax and allow all bills of costs in accordance therewith; and for all business not comprehended therein, the like fees, costs, and charges as are established by law or sanctioned by usage in the several superior courts of England for the conduct of such business shall be allowed.

Costs to be taxed by the Master in Equity and the Prothonotary.

2. That the costs in equity, ecclesiastical proceedings, and in conveyancing, shall be taxed by the Master in Equity; in insolvency, by the Chief Commissioner of Insolvent Estates; and in common law and in criminal proceedings by the Prothonotary, or such other officer as the judges may appoint.

Security for costs.

3. That application for security for costs be, in ordinary cases, made before plea, and in other cases, within a reasonable time after the absence of the plaintiff has come to the knowledge of the defendant.

On amendment.

4. That whenever any amendment is allowed, or rule or order enlarged, upon payment of costs, payment of such costs shall be a condition precedent to the progress of the action, suit, or matter, or hearing of the rule or order.

Costs of rule or order.

5. That whenever any rule or order is made absolute or granted, and no mention of costs is made by the court or a judge, such rule

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(*a*) The omission of an indorsement on the writ of the sum for which a person is to be arrested on a writ of *ne exeat coloniâ*, may be amended by the court.—*Musson v. Bourne*, 1 W. & W. (Eq.), 1.

(*b*) An affidavit which is objected to because of not being divided into paragraphs, and because the word "com." is affixed for commissioner, may be amended.—*Tully v. Osmond*, V.L.T., 145.

(*c*) For amendment of date of petition in insolvency, where no one was misled by the error, see *In re Wilson*, V.L.T., 252.

(*d*) As to the recovery of fines and recognizances, see 28 Vict. No. 241, Part I., "*Crown Remedies and Liabilities Statute* 1865," *ante*, p. 580.

(*e*) But see, for costs in civil actions, the "*Common Law Procedure Statute* 1865," 28 Vict. No. 274 s. 387, *ante*, p. 194.

or order shall be drawn up with costs to be paid to the successful party. Reg. Gen. 1 Feb. 1854.

6. That where notice of an intended motion is given, or where cause is to be shown in the first instance after notice against a rule or order, and the party who may have given such notice or who intended to move for such rule or order shall not appear, but the party served with notice or prepared to show cause do appear, the court may at its rising, on production of the notice, make order that the costs of the party so appearing be paid by the party who gave such notice. Cost of showing cause in the first instance.

And if both parties appear and the party who shows cause be successful, the court may order that his costs be paid in like manner.

7. That where a new trial is granted without any mention of costs, the costs of the first trial shall not be allowed to the successful party, although he succeed on the second trial. New trial.

8. That the taxing officers may in their discretion allow in all cases, as between party and party, the fees of counsel[a] for drawing pleadings or other proceedings, whether special or otherwise, and for advising. Costs of pleading and advising.

9. That the taxing officers shall allow in the costs of briefs to counsel only for copying into such briefs of such documents or parts of documents as they may in their discretion consider necessary for the instruction of counsel, or for use at any trial or hearing. Costs of copying documents in briefs.

10. That if a plaintiff in ejectment be nonsuited at trial, the defendant shall be entitled to his costs of suit. Plaintiff in ejectment nonsuited, defendant may receive his costs.

11. That no person admitted to use in *formâ pauperis* shall, in any case, be entitled to costs from the opposite party unless by order of a court or a judge. Paupers' costs.

12. That when two or more writs, summonses, orders, or notices, in the same cause or matter, can be served at the same time on any plaintiff or defendant, they shall be so served, and when such is the case, mileage shall be allowed for the service of one only. Mileage on several writs &c.

13. That any number of names of witnesses may be inserted in a subpœna, and the costs of only one original will be allowed. Subpœna.

14. That whenever it shall appear to the Master in Equity that it is just that the costs, or any part of the costs, of any attendance or proof before him, or of costs incurred through non-attendance, should be paid specially by any party or claimant, he may award payment thereof. Attorney's costs especially.

15. That when a witness shall attend in one cause only, he will be entitled to the full allowance; when in more than one cause, he will be entitled to a proportionate part in each cause only. Attendance of witnesses.

16. That the travelling expenses of every witness shall be allowed according to the sums reasonably and actually paid, but in no case shall exceed one shilling and sixpence per mile one way. Travelling expenses of witnesses.

17. That no costs of attendance by counsel of a judge's summons shall be allowed, unless the judge before whom the summons Costs of counsel.

(a) The master has a discretion as to allowing for two counsel or not.—*Goss* v. *O'Shanassy*, V.L.T., 148.

Reg. Gen. 1 Feb. 1854.

is heard shall certify that in his opinion such attendance was necessary.

Costs on a cognovit or judge's order.

18. That when any judgment is signed on a cognovit or judge's order authorizing the plaintiff to sign judgment, no declaration to ground such judgment shall be necessary or allowed on taxation of costs.

Costs in action on contract where the sum recovered or paid into court and accepted, or agreed to be paid, is under fifty pounds.

19. That in all actions on contract other than cases wherein by reason of the nature of the action no suit in a county court can by law be maintained, where the sum recovered or paid into court and accepted by the plaintiff in satisfaction of his demand, or agreed to be paid on the settlement of the action, shall not exceed fifty pounds (without costs), the plaintiff's costs as against the defendant shall be taxed according to the lower scale of allowances in the Schedule of Costs hereunto annexed: Provided that if the judge shall certify on the roll that the cause was proper to be tried before a judge of the Supreme Court of the colony, and not before a judge of an inferior court, the costs shall be taxed on the higher scale.

In action on contract, how bill of costs to be headed.

20. That in all actions on contract, at the head of every bill of costs taken to the taxing officer to be taxed, it shall be stated whether the sum recovered, accepted, or agreed to be paid, exceeds the sum of fifty pounds or not, in the following form:—

Debt—above fifty pounds.
Debt—fifty pounds or under.

Costs in actions for unliquidated damages when the verdict is for less than ten pounds.

21. That if any plaintiff in any action before the Supreme Court of the colony shall obtain a verdict for less than twenty pounds unliquidated damages, and if the presiding judge on such trial shall certify on the back of the roll that the action was not of sufficient value to justify an action in the Supreme Court, the plaintiff's costs as against the defendant shall be taxed according to the lower scale of allowances in the Schedule of Costs hereunto annexed.

No costs when judge certifies the action to be frivolous.

22. That if any plaintiff in a trial before the Supreme Court of the said colony shall obtain a verdict for less than ten pounds liquidated damages or debt, or less than forty shillings unliquidated damages, and if the presiding judge on such trial shall certify on the back of the roll that the cause of action was frivolous or vexatious, or not fit to be brought in such Supreme Court, the plaintiff shall recover no costs.

Taxation when several issues.

23. That in every case all appointments for taxation of costs shall be served or notice thereof posted in the office of the Prothonotary, not less than twenty-four hours before the hour mentioned for such taxation; and on taxation of costs where some issues are found for the plaintiff and others for the defendant, the taxing officer shall require that the attorneys shall mark such parts of the briefs as apply to the several issues upon which they claim to be entitled to costs, and the *allocatur* of the taxing officer shall be given upon the bill taxed, which shall be filed immediately after taxation with the affidavit or affidavits of increase used therein; and the bill of costs together with the affidavit or affidavits of increase, shall be lodged with the taxing officer at the time the appointment for such taxation shall be taken out.

24. That in all cases of applications to refer an attorney's bill for taxation, under section 2 of the Act 11 Victoria No. 33, in that behalf, where the rule or order is made *ex parte*, no rule or order for judgment shall be had or made without notice or a previous rule or summons on the party to show cause. Reg. Gen. — 1 Feb. 1854. Taxation under 11 Vict. No. 33 s. 2.

25. That when proceedings are commenced in vacation, and continued to the following term, or are commenced in term and continued in the following vacation, only one term fee shall be allowed in respect thereof, and no additional charge for letters; and where on taxation of costs a term fee has been allowed, and proceedings are afterwards continued in the same term or vacation, no further allowance shall be made for letters. Term fees.

26. That the sum to be paid for depositions under the Act of the Governor and Legislative Council of the colony of New South Wales, passed in the 14th year of Her Majesty Queen Victoria, being number 43, shall be fourpence per folio of ninety words for the first twelve folios, and threepence per folio for the remaining folios.(a) Fees for copies of depositions.

27. As to taxation of costs. [*This Rule, 21 March 1854, repealed by Rule 28, 14 September 1860.*]

SCHEDULES.

[*The Schedule to Chapter II. was repealed by the* REGULÆ GENERALES *of December 23rd 1865, and the Schedules to Chapters III. and IV. were repealed by "The Common Law Practice Act* 1856," 19 *Vict. No.* 19 *s.* 2.]

SCHEDULE TO CHAPTER V.

In the Supreme Court of the Colony of Victoria. } In Equity.

On the day of A.D. 18 .

(b) A.B. by E.F. his solicitor sues C.D., and says:

1. That on the day of A.D. 18 , he was seised in fee simple of ten acres of land, situate in [*describe the parcels*].

2. That on that day he sold the same to the defendant.

3. That thereupon the defendant signed the agreement, a copy whereof is annexed.

4. That at the time of signing the agreement, the defendant paid the plaintiff £150, the deposit.

5. That within days after signing the agreement aforesaid, the plaintiff delivered to one Mr. G.H., solicitor for the defendant, an abstract of his title to the said land.

6. That the said G.H. made several objections to, and requisitions on the title of the plaintiff, several of which the plaintiff removed, many of which he answered, and of which the remainder are frivolous.

7. That the defendant has refused to complete the contract, declaring that the objections which the plaintiff deems to be frivolous are valid.

8. That the said objections are:—

(1.)
(2.)
(3.) [*Set them out*].
(4.)

9. That the plaintiff is able to make a good title to the premises, notwithstanding the objections of the defendant.

(a) See 28 Vict. No. 267 s. 98, "*The Justices of the Peace Statute* 1865," *ante*, p. 1208.

(b) It is unnecessary to set out the plaintiff's residence in the bill.—*Cain* v. *Chissel*, V.L.T., 143.

Reg. Gen. 1 Feb. 1854.

The plaintiff therefore prays that the defendant may answer each of the foregoing allegations, as if specifically interrogated with respect thereto.

And that he may be compelled by the decree of this honorable court specifically to perform his agreement with the plaintiff, who hereby offers to perform his part thereof.

And that the plaintiff may have such other relief as the circumstances of the case may require.

[INDORSEMENT.]

In the Supreme Court of the Colony of Victoria.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth :(a)

This writ was issued by of attorney for the plaintiff

G.H. of maketh oath and saith that he served a true copy of this writ on on the day of , A.D. 18 .

Sworn by the abovenamed G.H. at this day of A.D. 18 , before me,

Commissioner for taking affidavits.

To of

GREETING—

We command you (and each of you), that within days after service hereof on you, exclusive of the day of service, you do deliver an answer to the plaintiff's bill on the other side written, otherwise you will be taken to have confessed the matter therein contained, and the decree of the court will be entered against you without further notice.

Witness—

His Honor, our Chief Justice of our said Supreme Court, at Melbourne, this day of One thousand eight hundred and

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SCHEDULE TO CHAPTER VI.

NOTE.—If an amended bill be served under Rule XI., without a judge's order, it must have the following remark written thereon :—

Vide Rule 16

Take notice that this bill is a substitute for that delivered to you on the day of A.D. 18 , and you will without reference to that, demur, or plead to, or answer this within the like time as is named in the summons indorsed on that.

INDORSEMENT ON AMENDED BILL.

A copy of this amended bill was served on the plaintiff on the day of A.D. 18 , by me,

---

FOR SUGGESTIONS, ETC.

Vide Schedule to Chapter III., the forms in which may be modified, and adapted to meet the jurisdiction and the special circumstances.

In the Supreme Court of the Colony of Victoria, } In Equity.

A.B. by E.F., his solicitor, sues C.D., and says :—

1. That on the day of A.D. 18 , he entered into an agreement with the defendant to carry on business with him in Melbourne, in the colony aforesaid, as wholesale dealers in goods, wares, and merchandise, under the firm of A.B. and C.D.

2. That the plaintiff introduced as a portion of the capital £10,000, the defendant £2,000.

3. That the proportion of interest to be derived from the profits of the business was to be, for the plaintiff three-fifths, for the defendant two-fifths.

4. That the proportion of the defendant was fixed at that rate in consideration that he would live on the premises where the business of the firm was carried on, and devote his entire time to such business.

(a) As to what should be set out in the writ, see *Jamieson* v. *Allen*, 1 W. & W. (Eq.), 19.

Reg. Gen. — 1 Feb. 1854.

5. That the business was to be carried on as long as the plaintiff and defendant should mutually agree, and was carried on in Melbourne, in the colony aforesaid, for ten months, during which time the profits of the same were large and increasing.

6. That the defendant, about the beginning of the month of A.D. 18 , became inattentive to the business of the firm, frequently absented himself in the day, refused to live on the premises, hired L.M. as a clerk, without the plaintiff's concurrence, and made him live on the premises.

7. That the defendant agreed to pay the said L.M. £300 out of the partnership funds, and did pay him £25 in advance for his first month's wages.

8. That the defendant discontinued to post and keep the books of the firm, and sold divers goods of the firm on credit, to persons unknown to the plaintiff, who, as the plaintiff is informed, are persons of slender means.

9. That the defendant has also incurred divers debts and liabilities in the name of the firm for matters with which neither the said firm nor the plaintiff are in the least concerned.

10. That the plaintiff often remonstrated with the defendant, and required him to give his attention to the business of the firm, and in other respects to adhere to the terms of the agreement of partnership.

11. That the defendant refused so to do, and said that he had the sole control of the affairs and was doing what was best for the concern, and would not be dictated to by the plaintiff.

12. That the plaintiff then, upon the day of A.D. 18 , and repeatedly since, asked the defendant to wind up the affairs of, and dissolve the said partnership.

13. That the defendant said he would not do so; if the plaintiff liked he might go away, but the business was thriving too well for him to afford to give up so much capital, and he would not do it; and that the agreement was for a partnership for five years, and until the expiration of that time he would not dissolve the partnership.

14. That on the day of A.D. 18 , the plaintiff insisted on an account being taken, when the defendant pushed him out of the warehouse, told him if he dared to come on the premises again he would give him in charge of the police; he caused the name of the firm A.B. and Co., painted over the door, to be obliterated, and painted up instead thereof C.D. and Co., and has wholly refused to allow the plaintiff to enter the premises, or to interfere in the management of the business in any way, and has moreover withdrawn all the partnership moneys from the bank of ; where the same were lodged, and transferred them to the bank of , and lodged them in his own name.

The plaintiff therefore prays that the defendant may answer each of the foregoing allegations, as if specifically interrogated with respect thereto; and that the said partnership may be dissolved, an account taken of all the dealings thereof, and the amount of money found to be due by the defendant to the plaintiff may be paid to him, and that the plaintiff may have such other relief as the circumstances of the case may require.

[INDORSEMENT.]

In the Supreme Court of the Colony of Victoria.

This writ was issued by of attorney for the plaintiff,

G.H. maketh oath and saith that he served a true copy of this writ on on the day of A.D. 18 .

Sworn by the abovenamed G.H. at this this day of A.D. 18 , before me,

Commissioner for taking affidavits.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth:

To of

GREETING—

We command you (and each of you) that within eight days after service hereof on you exclusive of the day of service, you do deliver an answer to the plaintiff's bill on the other side written, otherwise you will be taken to have confessed the matter therein contained, and the decree of the court will be entered against you without further notice.

Witness—

His Honor, our Chief Justice of our said Supreme Court at Melbourne, (Seal) this day of One thousand eight hundred and

Reg. Gen. — 1 Feb. 1854.

In the Supreme Court of the Colony of Victoria. } In Equity.

A.B. by E.F., his solicitor, on behalf of himself and all other the legatees and personal representatives of such legatees of L.M. of Melbourne, wine merchant, deceased, sues C.D., O.P., and R.V., executors of the last will of the said L.M., and says:—

1. That the said L.M. died at Melbourne, aforesaid, on the day of , A.D. 18 , having duly made his will, which bears date on the day of , A.D. 18 , and which is unrevoked.

2. That by his said will he bequeathed to the plaintiff the sum of £1000, and also bequeathed various other sums to divers other persons, as in the said will is set forth.

3. That by his said will he appointed the defendants the executors thereof.

4. That probate thereof has been granted to the said defendants, by order of this honorable court.

5. That the plaintiff has applied to the defendants for payment of the said legacy.

6. That the defendants, one and all, say that the said L.M. died insolvent, and there are not assets sufficient to pay his debts.

7. That on the contrary, the plaintiff asserts that L.M. died in affluent circumstances, and that he left sufficient property to pay all his debts, and the legacies named in his will.

The plaintiff therefore prays that the defendants may answer each of the foregoing allegations as if specifically interrogated with respect thereto.

And that an account may be taken of the personal estate and effects of the said L.M. which came to the hands of the defendants, and of the debts owing to him at the time of his death, and that the same may be duly administered, and the said legacy of £1000 paid to the plaintiff.

And that the plaintiff have such other relief as the circumstances of the case may require.

[INDORSEMENT.]

In the Supreme Court of the Colony of Victoria.

This writ was issued by of attorney for the plaintiff,

G.H. of maketh oath and saith that he served a true copy of this writ on on the day of A.D. 18 .

Sworn by the abovenamed G.H. at this day of A.D. 18 .

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth:

To of

GREETING—

We command you (and each of you) that within days after service hereof on you, exclusive of the day of service, you do deliver an answer to the plaintiff's bill, on the other side written, otherwise you will be taken to have confessed the matter therein contained, and the decree of the court will be entered against you without further notice.

Witness—

His Honor, our Chief Justice of our said Supreme Court, at Melbourne, this day of One thousand eight hundred and

(Seal)

SCHEDULE TO CHAPTER VIII.

[*Repealed by Reg. Gen., 23rd June* 1873, post, *p.* 2795.]

SCHEDULE TO CHAPTER IX.(a)

(a) This schedule contained several forms of procedure by *Fi. Fa.* and *Ca. Sa.* in suits by the Crown, which were repealed by 22 Vict. No. 86 s. 54, "Audit," *ante*, p 50. See "*Crown Remedies and Liability Statute* 1865," 28 Vict. No. 241 s. 2, *ante*, p. 580.

No. Roll, No. Term, 18 .

Reg. Gen. 1 Feb. 1854.

In the Supreme Court of the Colony of Victoria. } (a)

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth:

To the Sheriff of the Colony of Victoria, and his lawful deputy.

GREETING—

We command you that of the goods and chattels, lands, tenements, hereditaments, moneys, and securities for money, equities of redemption, and equitable interests in your bailiwick, of and belonging to you cause to be made which lately, in our Supreme Court of the colony of Victoria, before our Chief Justice there, recovered against as well for his damages, as for costs and charges by about suit in that behalf expended, whereof the said is convicted, and have that money before our Chief Justice, at Melbourne, upon the day of next, to be rendered unto the said for damages aforesaid; and in what manner you shall have executed this our writ make appear to our Chief Justice aforesaid, at Melbourne, upon the day of next, and have there then this writ.

Witness—
His Honor
our Chief Justice of our said court, at Melbourne, the day of AD. 18 , and in the year of our Reign.

Prothonotary of the Supreme Court of the Colony of Victoria.

[INDORSEMENT.]

Roll No. Term, 18 .
In the Supreme Court of the colony of Victoria.

Fi. Fa.

Levy £
together with
the deft.
and resides

This writ was issued by attorney for the plaintiff within named.

In the Supreme Court of the Colony of Victoria. } (b)

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth:

To the Sheriff for the Colony of Victoria, or his lawful deputy.

GREETING—

We command you that you take and safely keep until he shall have given you bail, or made a deposit with you according to law, in an action at the suit of as will be more particularly set forth in a declaration to be exhibited against or until the said shall by other lawful means be discharged from your custody; and we do further command you that on the execution of this writ you do deliver a copy of the same to the said and we hereby require the said to take notice that within days after the return hereof, he shall cause special bail to be put in for him in our said court to the said action, and in default of so doing, such proceedings may be taken

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(a) As to the repeal of this and of the three following forms *quære*, see 19 Vict. No. 19 s. 2, "*The Common Law Practice Act* 1856." For forms of writs of *Fi. Fa.*, see the "*Common Law Procedure Statute* 1865," 28 Vict. No. 274 s. 292, and Schedule 26, *ante*, pp. 176 and 218.

(b) See note (a). As to forms of writs of capias, see the "*Common Law Procedure Statute* 1865," 28 Vict. No. 274 s. 339, and Schedule 31, *ante*, pp. 185 and 219.

Reg. Gen. 1 Feb. 1854.

as are mentioned in the warning hereunder written; and we do further command you that you return this writ to our said court on the day of next, together with the manner in which you have executed the same, and the day of the execution thereof.

Witness—

His Honor
Chief Justice of our said court, at Melbourne aforesaid, this day of A.D. 18 .

Prothonotary of the Supreme Court of the Colony of Victoria.

A WARNING TO DEFENDANT.

If a defendant, having given bail on the arrest, shall omit to put in special bail as required, the plaintiff may proceed against the sheriff, or on the bail bond.

[INDORSEMENT].

In the Supreme Court of the Colony of Victoria.

} Writ of *Ca. Re.*

Bail for £
By order of
Dated this day of 18 .
The defendant is
This writ was issued by
Melbourne,
attorney for the plaintiff within named.

In the Supreme Court of the Colony of Victoria. } (a) No.

A.B. plaintiff,
v.
C.D. defendant.

Upon reading the affidavit of I do order that the plaintiff be at liberty within days from the date hereof to issue out of the Supreme Court of the Colony of Victoria one or more writ or writs of *capias* into one or more different circuit districts, as the case may require, against the defendant in this cause, indorsed to hold him to bail at the suit of the said plaintiff, for the sum of pounds shillings and pence, pursuant to the Act.

Dated this day of in the year of our Lord One thousand eight hundred and

---

Roll, No. Term, 18

In the Supreme Court of the Colony of Victoria. } (b)

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth:

To the Sheriff for the Colony of Victoria, or his lawful deputy.

GREETING—

We command you that you take of in the colony of Victoria, if [he *or* she] shall be found in your bailiwick, and safely keep, so that

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(a) See note (a) preceding page, and see also the "*Common Law Procedure Statute* 1865," 28 Vict. No. 274 s. 332, *ante*, p. 184.

(b) See note (a) preceding page, and also see 29 Vict. No. 284 s. 1, "*Imprisonment for Debt*," *ante*, p. 1010, and 29 Vict. No. 292 ss. 1 and 2.—*Ibid.*, *ante*, p. 1015.

you may have body before us at Melbourne, in the colony of Victoria, on the day of next ensuing, to satisfy of which he the said lately in our court, before us, at Melbourne aforesaid, recovered against for damages which had sustained, as for his costs and charges by about suit in that behalf expended, whereof the said is convicted, as appears to us of record, and have there then this writ.

Reg. Gen. 1 Feb. 1854.

Witness—

Chief Justice of our said court at Melbourne, the day of in the year of our Reign.

[Damages *or* debt] .....£

Costs.

Fi. Fa. .....

Ca. Sa. .....

Alias .....

Take

besides sheriff's fees and poundage, &c.

[INDORSEMENT.]

Roll Term

In the Supreme Court of the Colony of Victoria.

v. } *Ca. Sa.*

Damages

Costs

Ca. Sa.

Take

besides sheriff's fees and poundage, &c.

VENIRE FACIAS.

[The form of writ here given was rendered unnecessary by the provisions of 21 Vict. No. 19 s. 21. See "*The Juries Statute* 1865," 28 Vict. No. 272 s. 21, *ante*, p. 1170; and for form of writ see Schedule V. thereto, *ante*, p. 1183.]

In the Supreme Court of the Colony of Victoria. } Writ of *Habere Facias Possessionem.* (a)

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth:

To the Sheriff for the Colony of Victoria, or his lawful deputy.

GREETING—

Whereas A.B., lately in our Supreme Court of the Colony of Victoria, before our said court at Melbourne, by the judgment of the same court, recovered against C.D. the right of possession of the premises described in the map hereunto annexed, situate and being in the parish of in the county of in the colony of Victoria, from which the said C.D. had ejected the said A.B., whereof the said C.D. is convicted, as appears to us of record: Therefore we command you that without delay you cause the said A.B. to have possession of the said premises, with the appurtenances; and in what manner you shall have executed this our writ make appear to our said court, at Melbourne aforesaid, on the day of in the year of our Lord One thousand eight hundred and , and have you there then this writ.

Witness—

His Honor our Chief Justice of our said court at Melbourne aforesaid, the day of in the year of our Lord One thousand eight hundred and , and in the year of our Reign.

Prothonotary of the Supreme Court.

(a) As to the repeal of this form *quære*, see No. 19 s. 2. "*The Common Law Practice Act* 1856," 19 Vict.

Reg. Gen. 1 Feb. 1854.

In the Supreme Court of the Colony of Victoria. } In Equity.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth:

To the Sheriff for the Colony of Victoria, or his lawful deputy.

GREETING—

Whereas C.D., lately in our Supreme Court of the Colony of Victoria, in the equity jurisdiction thereof, was by the decree and order of the said court directed, that he the said C.D. should restore possession of the lands and premises described in the map hereunto annexed, to A.B.; and whereas possession of the same having been demanded, the said C.D. has refused to restore the same: Therefore we command you that without delay you cause the said A.B. to have possession of the said premises, with the appurtenances; and in what manner you shall have executed this our writ make appear to our said court, at Melbourne aforesaid, on the day of in the year of our Lord One thousand eight hundred and and have you there then this writ.

Witness—

His Honor our Chief Justice of our said court, at Melbourne aforesaid, the day of in the year of our Lord One thousand eight hundred and , and in the year of our Reign.

Master in Equity.

SCHEDULE OF COMMON LAW.

FEES PAYABLE IN THE PROTHONOTARY'S OFFICE.

[*These are now fixed by the* "Common Law Procedure Statute 1865," 28 *Vict. No.* 274 *s.* 371, *and Schedule* 33, ante, *pp.* 190 *and* 220]

ATTORNEYS' CHARGES.

[*These are now fixed by the* "Common Law Procedure Statute 1865," 28 *Vict. No.* 274 *s.* 440, *and Schedule* 39, ante, *pp.* 207 *and* 222.]

ALLOWANCE TO WITNESSES.

[*These are now fixed by the* "Common Law Procedure Statute 1865," 28 *Vict. No.* 274 *s.* 439, *and Schedule* 38, ante, *pp.* 207 *and* 222.]

SCHEDULE OF FEES PAYABLE IN THE MASTER IN EQUITY'S OFFICE.

	£	s.	d.
Affixing seal of court to any commission or document	1	0	0
Sealing any writ or renewal...	0	10	6
Every oath administered	0	1	0
For marking exhibits attached to any affidavit, an additional sum of ...	0	1	0
For every recognizance settling	0	10	6
Acknowledging first cognizor	0	7	6
Each name beyond the first	0	5	0
For every office search of papers in suit or matter pending	0	1	0
In other cases	0	2	6
Inspection of documents, or taking copies or extracts, per hour ...	0	3	4
For summons for hearing in chambers	0	3	0
For the judge's adjudication, or order thereon...	0	5	0
Setting down undefended cause for hearing	0	10	0
Setting down defended cause for taking evidence	0	10	0
Setting down demurrer or plea	0	10	0
Setting down defended cause for hearing	0	10	0
The like on further directions	0	10	0
Rehearing...	0	10	0
For every decree on hearing	1	0	0
Or further directions	1	0	0
Decretal or other order	0	10	6
Entering same on roll, per folio	0	0	6
For every warrant	0	3	0
Reports or certificates, for drawing, per folio, exclusive of schedules ...	0	1	0
Engrossing same	0	0	6
Signing	1	0	0
Entering same, per folio	0	0	6

	£	s.	d.	Reg. Gen.
ABSTRACTS.				
Perusing every three sheets...	0	6	8	—
Conditions of sale, settling ordinary form	0	5	0	1 Feb. 1854.
Long and special, according to circumstances, from	1	1	0 to 3	3 0
ADVERTISEMENTS.				
Settling ordinary form	0	5	0	
Special, according to circumstances	1	1	0	
Allowance of master, for signing the allowance of any account, or other document not otherwise herein specially provided for	0	5	0	
For attendance to produce documents in the Supreme Court (except when sitting in equity), or in any other court	0	10	6	
Attending any sale	1	1	0	
Taxing costs, two and a-half per cent.				
DEEDS.				
Perusing and settling, not exceeding thirty folios	1	0	0	
Exceeding thirty, not exceeding fifty...	1	10	0	
Exceeding fifty, not exceeding one hundred	2	10	0	
Exceeding one hundred	3	0	0	
Examining engrossment, per skin	0	3	4	
Signing allowance	0	5	0	
Comparing books, papers, &c., with schedule, when deposited or delivered out	0	10	6	
Drawing writ of injunction	1	1	0	
Filing every roll and petition	0	5	0	
Filing every affidavit or other document, not otherwise herein specially provided for	0	1	0	
Interrogatories, settling, per folio	0	1	0	
Signing allowance	0	5	0	
Office (or other) copies, per folio	0	0	6	
For every subpœna	0	7	6	

SOLICITORS' CHARGES.

The same as at common law, as nearly as the nature of the business done and the circumstances will allow.

FEES PAYABLE IN LUNACY.

[*These are now regulated by the Order of* 14 *March* 1870 post, *made in pursuance of the "Lunacy Statute"* 31 *Vict. No.* 309 *s.* 183, ante, *p.* 1632.]

FEES AND CHARGES IN ECCLESIASTICAL JURISDICTION.

PROBATES.	Fees paid at Public Office.			Charges of a Proctor.		
	£	s.	d.	£	s.	d.
£1000 and upwards	7	3	4	9	8	10
Under £1000 ...	6	3	4	8	5	6
„ £600 ...	5	3	4	7	2	2
„ £300 ...	3	3	4	4	15	6
„ £100 ...	1	2	0	2	3	0
„ £20 ...	0	11	0	1	0	0
„ £5 ...	0	1	0	0	7	0

ADMINISTRATION.	Fees paid at Public Office.			Charges of a Proctor.		
	£	s.	d.	£	s.	d.
£1000 and upwards	8	0	4	10	1	2
Under £1000 ...	7	0	4	8	17	10
„ £600 ...	6	0	4	7	14	6
„ £300 ...	4	0	4	5	7	10
„ £100 ...	1	19	0	2	14	6
„ £40 ...	1	10	8	2	4	0
„ £20 ...	0	19	8	1	9	2
„ £5 ...	0	2	0	0	9	6

With common law charges, according to common law scale, for all matters and things done herein.

FEES AND CHARGES IN THE SHERIFF'S DEPARTMENT.

[*These are now fixed by the* "Common Law Procedure Statute 1865," 28 *Vict. No.* 274 *s.* 372, *and Schedules* 34 *and* 35, ante, *pp.* 190, 220, *and* 221.]

In the Supreme Court of the Colony of Victoria. } At Law.

Thursday the twenty-second day of May in the year of our Lord One thousand eight hundred and fifty-six.

REGULÆ GENERALES.[a]

(Under 19 Victoriæ, No. 19.)

Reg. Gen. — 22 May 1856.

1. It is ordered that the first or second or third clerk in the office of the Prothonotary, or such other person as the judges shall direct, may tax any bill of costs in the said office, and give his allocation at the foot of such bill.

2. That in the absence of the Prothonotary from his office, all acts which the Prothonotary is required to do may be done during his absence by the chief clerk in the said office, or by such other person in that behalf to be appointed by the judges of the said court.

In the Supreme Court of the Colony of Victoria. }

REGULA GENERALIS.

Friday the second day of October in the year of our Lord One thousand eight hundred and fifty-seven.

Reg. Gen. — 2 Oct. 1857.

That on and after the 5th October 1857 the court held before a single judge sitting in equity will take business in the following order, as far as practicable:—

The hearing of causes and demurrers (as set down in the list) on Mondays, Tuesdays, Wednesdays, Fridays, and Saturdays, in two consecutive weeks. The taking evidence on the like days in the third week, and so on in rotation, except during the days set apart for hearing appeals in equity and during the recess. And the hearing of motions of course, and such other pressing motions as the master may enter in the list, on Thursday in every week, after the disposal of the business before the court in its insolvency jurisdiction. That appeals in equity be heard before the Full Court between the 1st and 15th days of May, the 17th and 30th days of September, and the 14th and 24th days of December in each year.

(a) These rules were held in *In re Harris, ex parte Hand-in-Hand Gold Mining Company*, A.R., June 25th 1866, to be still in force.

In the Supreme Court of the Colony of Victoria.

Friday the fourteenth day of September in the year of our Lord One thousand eight hundred and sixty.

Reg. Gen. — 14 Sept. 1860.

In pursuance of the powers contained in the Act of Parliament of Victoria, numbered ninety-nine,[a] their Honors the Judges of the said Supreme Court hereby order as follows:—

1. The curator may apply to the Supreme Court in its equity jurisdiction, for a rule to administer the estate of any deceased person, and such application shall be made in person, or if the court shall deem it necessary by counsel on his behalf.

2. The rule set forth in the First Schedule[b] to the said Act shall be signed by the Master in Equity.

3. The application for any such rule shall be supported by an affidavit to the effect and in substance as set forth in the form hereunto annexed, No. 1, and such form or any part of it may be set forth in one or, if necessary, more affidavits.

4. Within fourteen days after every such rule shall have been granted, the curator shall cause an advertisement to be published pursuant to the sixth section of the said Act to the effect set forth in the form hereunto annexed, No. 2.

5. These rules shall take effect from and after the first day of October in the year of our Lord One thousand eight hundred and sixty.

WILLIAM F. STAWELL.
REDMOND BARRY.
ROBT. MOLESWORTH.
ROBERT WILLIAMS POHLMAN.

No. 1.

In the Supreme Court of the Colony of Victoria. In its Ecclesiastical Jurisdiction.

In the goods of

I of make oath and say:—

1. That I have been informed by [*here set out name and addition of informant or other source of information*] and believe that late of departed this life on the day of at intestate [*or if a will or codicil state so, and whether appointing curator to administer the estate or not; and set out the date thereof and the executor therein named if any, and the names of the subscribing witnesses thereto*].

2. That I have also been informed by [*set out as before*] and believe that the said had at the time of his death personal property in this colony to the value of £ or thereabouts, consisting of [*state generally the nature of the property*].

3. That I have been informed by [*set out as before*] and believe that the said left the following persons his relations and next of kin him surviving [*here set out all relations and next of kin, classifying them; or if none, state so*].

4. That I have this day caused search to be made in the proper office of this honorable court, and find that no grant of probate of any will or letters of administration relating to the estate within the said colony of Victoria of the said deceased has been made.

(*a*) Repealed and re-enacted by 27 Vict. No. 230 s. 2, "Intestates," *ante*, p. 1135, except as to rules and orders made thereunder.

(*b*) The 5th Schedule of the Act 27 Vict. No. 230 is identical with the schedule here referred to.

Reg. Gen. — 14 Sept. 1860.

5. That I have been informed by [*set out as before*] and believe that none of the said relatives or next of kin [*if any were left*] nor any other person entitled and within the said colony is ready to take such grant as aforesaid.

6. That I have been informed by [*set out as before*] and believe that the said estate of the said deceased [*or some part thereof, specifying it*] is exposed and liable to loss, waste, or injury [*as the case may be*], for the following reasons [*here state briefly and distinctly the grounds on which deponent arrives at this conclusion*].

7. That I have this day caused search to be made in the proper office of this honorable court, and find that no caveat has been lodged against the granting of a probate or letters of administration [*as the case may be*] relating to the estate of the said deceased [*or if caveat lodged, state so; and specify the reason why the application is made notwithstanding such caveat*].

No. 2.

NOTICE.

The honorable the Supreme Court of the Colony of Victoria did on the day of grant the Curator of the Estates of Deceased Persons a rule to administer the personal estate of late of deceased [*if curator appointed by will or codicil of deceased person, state so*].

Dated this day of 186 .

A. B.,
Curator of Estates of Deceased Persons.

In the Supreme Court of the Colony of Victoria.

Friday the twenty-first day of June in the year of our Lord One thousand eight hundred and sixty-one.

Reg. Gen. — 21 June 1861.

In pursuance of the powers contained in the Act of Parliament of Victoria, numbered 112 :[a] It is ordered—

That from and after the 21st day of June in the year of our Lord One thousand eight hundred and sixty-one, the fees to be paid under and by virtue of the provisions of the said Act shall be as follows :—

	s.	*d.*
For every acknowledgement, before whomsoever taken	10	0
On the deposit of any deed or document, whether deposited collectively or separately, for each one ...	5	0
For searching for any deed or document so deposited, or for making a copy thereof, or for taking extracts therefrom, for every such search, copy, or extract separately	1	0

That all deeds or documents so deposited shall be open to the inspection of any person, upon payment of the proper fees.

By the Court,

(L.S.)

(*a*) This rule was made under the Act 24 Vict. No. 112 s. 88, which was repealed by 27 Vict. No. 213 s. 2, "*The Real Property Statute* 1864," *ante*, p. 2311. The power contained in sec. 77 of the latter Act to make rules, has not been exercised.

In the Supreme Court of the Colony of Victoria. } Divorce and Matrimonial Causes Jurisdiction.

RULES AND REGULATIONS.

Dated the eighteenth day of September in the year of Our Lord 1861.

Reg. Gen. — 18 Sept. 1861.

In pursuance of the provisions of the Act passed in the 25th year of the reign of Her present Majesty Queen Victoria, No. 125, we, the Judges of the Supreme Court of the Colony of Victoria, do make the following Rules and Regulations concerning the practice and procedure of the court under the said Act, and we direct that the same be observed on and after the twentieth day of September A.D. 1861.

Proceedings commenced by petition.

1. Proceedings before the court shall be commenced by presenting to a judge for acceptance by him a petition according to the Form No. 3.(a)

Statements in petition.

2. Petitions to obtain decrees of nullity of marriage, dissolution of marriage, judicial separation, restitution of conjugal rights, or declarations as to jactitation of marriage, shall state so many of the following facts and circumstances, with dates, and all other particulars, fully and distinctly, as are applicable to each case, or assign explicit reasons for omitting so to do:—

1. Marriage.
2. Age, place of birth, and domicile of husband and wife respectively.
3. Condition of life and means of livelihood of husband and wife respectively, and both before and after marriage.
4. Names, sexes, ages, and places of birth of living children, if any.
5. Co-habitation, tracing it clearly from marriage to last determination, showing fully when, why, and under what circumstances it ceased.
6. Separation or separations, if any, and causes thereof, and substance of deed of separation, if executed.
7. Origin of the acquaintance with the adulterer or adulteress.
8. Fact and time of adultery.
9. All the occasions on which, within petitioner's knowledge, adultery has been committed.
10. The precise occasion when petitioner first suspected any improper or adulterous intercourse.
11. Reasons, if any, for not having sooner instituted proceedings.

(a) Where it appeared that a copy of a petition for dissolution of marriage had been delivered to a law officer on the day following that on which it was delivered to a judge, but before the acceptance of the petition by the judge—*Held*, per Barry, J., and Williams, J., Stawell, C.J., *dissentiente*, that such service was insufficient; and, *per totam curiam*, that the court could not sanction an adjournment in order to ascertain whether the law officer was satisfied with such service.—*Molesworth* v. *Molesworth*, 2 W. & W. (I. E. & M.), 139.

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12. Any other facts or circumstances within petitioner's knowledge bearing on the petition.

13. Distinct and unequivocal denial of all collusion or connivance, past or present, directly or indirectly with the respondent, or any person liable to be made respondent.

Petition to be verified by affidavit.

3. Every such petition shall be accompanied by an affidavit[a] made by the petitioner, and, if necessary, some other person or persons, verifying, paragraph by paragraph, the facts stated in the petition, distinguishing those within the personal knowledge of the deponent and those which the deponent can verify only from belief.

Acceptance of petition by judge.

4. All such petitions and affidavits shall be laid before a judge, who shall, if they are in compliance with these rules and regulations, or contain satisfactory excuses for non-compliance, indorse upon every such petition his acceptance thereof, or if they are not in compliance and do not contain satisfactory excuses, shall require the attendance before him in chambers of the petitioner, and shall examine him or her *vivâ voce*, on oath, as to the matter of such petition, and shall thereupon either indorse such acceptance or shall refuse to accept such petition, and any person dissatisfied with such refusal may move in open court upon the same or further or other materials that such petition may be accepted, and such petition shall thereupon accordingly be accepted or refused, and every petition when so accepted by the court or a judge shall be forthwith filed in the office of the Master in Equity.[b]

Citation to be signed and sealed.

5. Every petitioner who files a petition shall prepare a citation according to the Form No. 1, and shall take such citation, together with a præcipe, according to the Form No. 2, to the office of the Master in Equity, and shall file the præcipe, and the citation shall be then signed and sealed.

Service of citation.

6. Every citation, within two months after acceptance of the petition upon which it is issued, shall, together with a copy of the petition sealed with the seal of the court, be served personally on the person cited,[c] by leaving a copy with such person, and producing the original, if required so to do, and a similar citation and copy shall be in like manner served upon every person whom it is intended to make a co-respondent in the cause.

Substitution of service.

7. In cases where personal service cannot be effected, application may be made to the court to substitute some other mode of

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(*a*) At the hearing of an undefended petition for divorce or judicial separation, the affidavit of the petitioner filed to verify the petition cannot be used as evidence of any of the facts necessary to entitle the petitioner to divorce or judicial separation.—*Casey* v. *Casey*, 1 W. & W. (I. E. & M.), 34.

(*b*) See note (*a*), Rule 1, *ante*.

(*c*) Where the co-respondent's residence was wholly unknown to the petitioner, although he had used all reasonable means to find him, personal service of the citation was dispensed with, upon two advertisements being inserted in one of the Melbourne daily papers at an interval of one month.—*Wright* v. *Wright*, 1 W. & W. (I. E. & M.), 198.

Except in cases of substituted service, it would seem unnecessary to have an order of court for service of the citation out of the jurisdiction.—*Pasmore* v. *Pasmore*, 1 W. & W. (I. E. & M.), 56; followed in *Park* v. *Park*, N.C., 28.

The service of the citation must be proved by *vivâ voce* evidence and not by affidavit.—*Jewell* v. *Jewell*, 2 W. & W. (I. E. & M.), 136.

Service of citations in England may be verified by the affidavits of persons resident there, if explicit and satisfactory.—*Constable* v. *Constable*, 1 W. W. & a'B. (I. E. & M.), 88.

The evidence of the petitioner alone as to service of the petition and citation upon the respondent and co-respondent is not sufficient to identify them.—*Russell* v. *Russell*, 4 A.J.R., 183.

service,[a] or to dispense with service altogether, and every such application shall be made upon affidavit or affidavits, stating when, where, and for what period the person to be served lived within the colony of Victoria, and whether as married or single, and where such person is and is domiciled at the time of the application, and also the means or mode of service expected to be effected. Reg. Gen. 18 Sept. 1861.

8. After personal service of citation has been effected, the citation, with the certificate of service indorsed thereon, shall be forthwith returned into and filed in the office of the Master in Equity. Citation to be returned forthwith after service.

9. After the service of citation, an appearance according to the Form No. 4 must be entered by or on behalf of the party cited, and no further proceedings shall be taken unless by the express leave of the court, until such appearance shall have been entered, or an affidavit of personal service of the citation shall have been filed in the office of the Master in Equity.[b] Appearance.

10. An appearance to a citation, by or on behalf of the party cited, may, by leave of the court, be entered at any time pending the proceedings of the cause, subject nevertheless to such conditions as may be thought just. Appearance entered by leave at any time.

11. After appearance so entered as last aforesaid by or on behalf of any respondent, he or she may be heard in respect of any question as to costs of suit, and may be also heard in respect to any question as to custody of children, although he or she may have filed no answer to the petition in the principal cause, but may not file affidavits touching matters in issue in the principal cause, and no such affidavits can be read or made use of as evidence in the cause. Hearing as to costs or custody of children before answer.

12. Within twenty-one days from the service of the citation and copy of the petition the respondent shall file his or her answer in the said office according to the Form No. 5, otherwise the petitioner, subject to compliance with Rule No. 9, shall be at liberty to proceed to proof of the petition. Time for answering.

(a) Where a petitioner had not heard of her husband for four years, and in his last letter addressed to her from England, he had requested that all communications as to his private affairs should be forwarded to his uncle, also resident in England, the court granted leave to make substituted service of the petition on the uncle in England; and ordered the citation to be advertised in the *Times*, or some other newspaper circulating in England at any three times, and in some paper circulating in Victoria three times, with intervals of a month between each advertisement.—*Homer* v. *Homer*, 1 W. & W. (I. E. & M.), 33; followed in *Wright* v. *Wright*, 1 W. & W. (I. E & M.), 198.

Where the respondent had absconded and the petitioner stated upon affidavit that she had been unable, after diligent inquiries, to gain any intelligence of him, and believed from the answers to her inquiries that he had left the colony, the court refused to dispense with service upon the respondent; but upon further affidavits stating where the respondent was supposed to be, directed substituted service by advertisements in that place.—*McNulty* v. *McNulty*, 1 W. W. & a'B. (I. E. & M.), 85.

(b) In a suit by husband against wife and co-respondent, for dissolution of marriage on the ground of adultery, and for damages against the co-respondent, the wife appeared but did not answer, and the co-respondent did not appear. The petitioner, without any order of a judge, set down the cause for hearing by the Full Court without a jury. When the cause came on for hearing the petitioner's counsel applied for leave to amend the petition by striking out the claim for damages. *Held*, by the Full Court, that where damages are claimed the cause must be heard by a jury, that a petitioner claiming damages by his petition cannot forego them at the hearing, but must obtain the sanction of a judge to amend the record before the cause is set down for trial; and that a cause cannot be set down for trial, whether before a jury or not, without the order of a judge.—*Tyers* v. *Tyers*, 1 W. & W. (I. E. & M.), 63.

A cause not to be heard before a jury may be set down for trial without a judge's order to do so, provided there be an affidavit of personal service of the petition and citation upon the respondent, where he has not entered an appearance.—*Julius* v. *Julius*, 5 A.J.R., 131.

Reg. Gen. 18 Sept. 1861.

Name and address of petitioner's and respondent's proctor to appear upon proceedings or address to be filed.

13. If the petitioner or respondent proceed by a proctor, every citation and answer shall have indorsed thereon the name of such proctor or his agent practising in the Supreme Court, and his place of business situate within two miles of the General Post Office, Melbourne; and if the petitioner or respondent proceed in person, the petitioner on filing the præcipe and the respondent on entering an appearance shall file an address within two miles of the General Post Office, Melbourne; and such petitioner or respondent may from time to time in like manner substitute another address within the like distance serving notice thereof upon the opposite party; and it shall be sufficient to leave all notices, instruments, and other proceedings not by these rules and regulations requiring personal service at such original or substituted address; and if such name be not indorsed or address filed, or if the address filed be more than two miles from the said post office, the opposite side may proceed by posting all such notices, instruments, and other proceedings in the office of the Master in Equity.

Answer verified by affidavit.

14. Every answer shall be accompanied by an affidavit made by the respondent, and, if necessary, some other person or persons, verifying fully, paragraph by paragraph, the facts stated in the answer, distinguishing those within the personal knowledge of the deponent and those which the deponent can verify only from belief: Provided that in no case shall any respondent be compelled to confess or admit the commission of adultery.

Affidavit of absence of collusion.

15. In cases involving a decree of dissolution of marriage, nullity of marriage, or judicial separation, or in a suit of jactitation of marriage, the respondent may, if he or she can, in the affidavit filed with the answer, fully and unequivocally state that there is not, and has never been, any collusion or connivance directly or indirectly between the deponent and the other party to the marriage.

Answer filed. Copy delivered.

16. The respondent shall file, in the master's office, his or her answer, and on the same day deliver to the petitioner or his or her proctor a copy thereof.

Reply filed. Copy delivered.

17. Within fifteen days from the filing and serving of the answer[a] the petitioner may file a reply thereto, and on the same day deliver to the respondent or his or her proctor a copy thereof, and the same period shall be allowed for similarly filing and serving any further or subsequent statement and copy thereof.

When cause to be deemed to be at issue.

18. Upon the expiration of twenty days from the filing and serving of the answer, or any subsequent pleading, the cause shall be deemed to be at issue, and if no further statement be filed within such period the cause shall be deemed to be at issue as from the filing of the last pleading.

If answer or reply not in time other side not bound to receive it.

19. If the petitioner or respondent, unless by leave of the court previously obtained, fail to file and deliver the answer, reply, or other proceeding within the time specified in these rules and regulations, the other party shall not be compelled to receive the same unless by direction of the court; and the expenses of every such application shall fall on the party causing the delay, unless the court shall otherwise direct.

(a) *Semble*, that upon the expiration of twenty days from the filing and serving of the answer the cause is, without any replication, at issue.—*Carnaby* v. *Carnaby*, 1 W. & W. (I. E. & M.), 65.

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20. If either party desire to amend his or her petition, answer, or subsequent statement, it may be done by permission of the court, and in such form and under such terms as the court may approve.

Amendment of proceedings at request of party.

21. Within twenty days after the cause is at issue and all affidavits, if any, have been filed, the petitioner or, on his default, any respondent, within ten days after such default shall engross on parchment the citation petition and subsequent proceedings if any, and shall file the same in the office of the Master in Equity.

Proceedings engrossed on parchment and filed.

Application to direct issue of fact to be tried by jury.

22. When the proceedings have raised the questions of fact necessary to be determined, either party may, within fifteen days from the filing and serving of the last proceeding, apply to the court to direct the truth of any question of fact arising in the proceedings to be tried by a jury and the time and place of such trial, and if no such application be made the court may direct that such question shall be so tried and the time and place of such trial.

Issue to be stated.

23. Whenever a cause is to be tried before a jury, the court shall direct the question at issue to be stated in the shape of a record, according to the Form No. 7, and the terms in which such question shall be stated, shall, on the application of either party, be settled by the court.

Issues of fact to be tried by a jury of twelve special jurors.

24. All issues of fact for trial before a jury shall be tried before twelve special jurors, and either at the sittings in Melbourne, or on circuit for the trial of issues of fact in actions at Common Law, or at periods to be specially fixed by the court, provided that in all suits for dissolution of marriage the trial of every such issue shall be held before the Full Court in Melbourne.

Trials of issues of fact as at *nisi prius*.

25. The records for the trials of all issues before a jury shall in all cases be entered in the office of the Prothonotary; and the proceedings as to notice of trial, entering of causes, summoning, attendance, and challenging of jurors, hearing and addresses of counsel,(a) motions for new trials,(b) and all other proceedings with reference to the trial of any such issue shall, unless otherwise provided for by these rules and regulations, be as nearly as may be according to the practice of the said Supreme Court in its common law jurisdiction, and the associate or other officer shall enter on the record the finding of the jury, and return the roll into the office of the Prothonotary, who shall, if no rule *nisi* for a new trial be granted, on the fifth day of the term next ensuing, or if such rule be granted, forthwith upon the disposal thereof transmit the roll to the office of the Master in Equity, where it shall be filed.

Cause tried on affidavits.

26. The petitioner shall in all cases, and whether the cause is to be tried on affidavits or before a jury, within twenty days after the record has been filed, and twenty days at least before trial, set down the cause as ready for trial and proceed to the trial thereof,(c) and on the day upon which it is set down shall in all cases give notice of his or her having done so to each party for whom an appearance has been entered; and if the petitioner delay filing the record and

(a) Where a cause is heard before a single judge without a jury, counsel have the same right to be heard as in an equity suit.—*Mackintosh* v. *Mackintosh*, 1 W. & W. (I. E. & M.), 73.

(b) Where the jury have found for the petitioner the court will not pronounce a decree until after the first four days of the next term, in order to afford the usual opportunity for a motion for a new trial.—*Bathgate* v. *Bathgate*, 2 W. & W. (I. E. & M.), 129.

(c) See *Tyers* v. *Tyers* and *Julius* v. *Julius*, *ante*, note (*d*), r. 9.

Reg. Gen. 18 Sept. 1861.

setting down the cause as ready for trial and proceeding to the trial thereof as aforesaid for the space of one month from the day on which the record was finally settled, the respondent may in like manner file the record and set the cause down as ready for trial, and give a similar notice to the petitioner and the aforesaid other parties. A copy of every such notice shall be filed in the offices of the Prothonotary and of the Master in Equity: Provided that in cases to be tried upon affidavit, the petitioner and respondent shall file the affidavits within eight days from the filing of the last proceeding, and counter affidavits to any facts stated in such affidavits may be filed by either party within fifteen days from the filing of the affidavits which they are intended to answer, and affidavits in reply to counter affidavits may be filed by permission of the court, but not otherwise.

Process as at common law.

27. In all suits and proceedings writs of subpœna for the attendance of witnesses, and with or without a clause of *duces tecum* shall be issued and served, and the like remedies be had for the non-attendance of witnesses as in an action at common law. Every subpœna shall, together with the præcipe, be taken to the office of the Master in Equity and there signed and sealed, and the præcipe shall be there filed.

Notice to admit document.

28. The petitioner or respondent may in all cases call upon the other party by notice in writing, according to the Form No. 6, to admit any document saving all just exceptions, and in case of refusal or neglect to admit the same, the costs of proving the document shall be paid by the party so neglecting or refusing, whatever the result of the cause may be, unless the judge before whom the issue shall be tried shall at any time certify that the refusal to admit was reasonable; and when such notice to admit has not been given, no costs of proving any document shall be allowed, except in cases where the admission to give the notice is, in the opinion of the Master in Equity or taxing officer a saving of expense.

Master to enter decree of court.

29. The Master in Equity shall in all cases cause the decree of the court to be entered in the court book.

Alimony.

30. The wife being petitioner[a] in a cause may proceed to file her petition for alimony according to the Form No. 8, and such petition may be filed at any time after personal service of the citation on the husband, or after service in some other mode substituted by order of the court, or after service on the husband has been dispensed with, provided the fact of marriage between the parties is established by affidavit filed in the cause; and a copy of such petition shall be served personally on the husband,[b] or application may be made to the court to substitute some other mode of service or to dispense with service of the same.

Answer to petition for alimony to be sworn and copy delivered.

31. The husband shall, within eight days after a petition for alimony has been filed,[c] file his answer thereto upon oath, and on the same day deliver a copy thereof to the wife, or to her proctor.

(*a*) The wife being respondent may also file a petition for alimony.—*Fowler* v. *Fowler*, 2 W. & W. (I. E. & M.), 126.

(*b*) Where the wife is respondent in the main cause, her petition need not be personally served on the husband. *Aliter* where the wife is petitioner in the main cause.—*Fowler* v. *Fowler*, *ubi sup.*

(*c*) The filing and service of the petition are not required to be contemporaneous, and the eight days runs from notice being given by service of a copy of the document filed.—*Fowler* v. *Fowler*, *ubi. sup.*

Reg. Gen. — 18 Sept. 1861.

32. The wife being the respondent in a cause must enter an appearance to the citation before she can file a petition for alimony. The husband being the respondent must enter an appearance to the citation before he can file an answer to a petition for alimony.

Appearance to be entered before petition for alimony or answer thereto.

33. The wife may at any time after the answer of the husband to her petition for alimony has been filed, or, in case no answer has been filed, at any time after the expiration of the period allowed for filing an answer, proceed to examine witnesses in support of her petition, and move the court to decree her alimony *pendente lite*,(a) giving two days' previous notice of such proceeding and motion to the husband, or to his proctor, unless the court, on motion made, shall have dispensed with the service of such notice.

Proceeding for alimony *pendente lite*.

34. A wife who has obtained a decree of judicial separation in her favor, and has previously filed her petition for alimony, may, unless in cases where an appeal to the Full Court is interposed, move the court to decree her permanent alimony: provided that she shall, eight days at least before making any such motion, give notice to the husband, or to his proctor, of her intention so to do.

Proceedings for permanent alimony.

35. If the wife objects to the answer of the husband to her petition for alimony as insufficient, she may move the court to order a further and fuller answer to be given by him, or to order the attendance of the husband or of any witnesses on the hearing of the petition, for the purpose of being examined thereon in open ocurt.(b)

Insufficient answer—subpœna to husband and witnesses.

36. No affidavits can be read or made use of as evidence in support of, or in opposition to, the averments contained in a petition for alimony, or in an answer to such a petition, unless by special leave of the court, obtained on motion after notice; but if the answer alleges that the wife has property of her own, she may answer that allegation by affidavit.

Affidavits in petitions for alimony.

37. Application on the part of a wife deserted by her husband for an order to protect her earnings and property acquired since the commencement of such desertion shall be made to the court according to Form No. 9, and shall be supported by affidavit.(c)

Application to protect earnings of deserted wife.

38. Application for the discharge of any order made to protect the earnings and property of the wife are to be founded on affidavit.

How discharged.

39. Every affidavit must be in conformity to the rules and practice observed by the Supreme Court with reference to affidavits used in its equity jurisdiction.

Affidavits.

40. A proctor and his clerk respectively, if acting for any other proctor, shall be subject to the rules in respect to taking affidavits which are applicable to those in whose stead they are acting.

Proctor if agent and his clerk within rules affecting his principal.

41. No affidavit shall be used unless it shall have been previously filed, and where a special time is limited for filing affidavits, no affidavit filed after that time shall be used without leave of the court in any of such cases.

Filing affidavit.

(a) As to the principles upon which alimony *pendente lite* is allotted, see *Molesworth* v. *Molesworth*, 1 W. & W. (L. E. & M.), 57.

(b) The summons for a further and fuller answer should be taken out within eight days after the delivery of the answer; but that time may be enlarged by negotiations between the parties or their proctors.—*Hosie* v. *Hosie*, 5 A.J.R., 21.

(c) The affidavits should not merely follow the precise terms of the Act, but should give particulars and details so fully that the court may be reasonably satisfied of the facts of the case.—*Pasmore* v. *Pasmore*, 1 W. & W. (L. E. & M.), 56.

Reg. Gen. — 18 Sept. 1861.

42. Applications to produce a deponent in the cause, for the purpose of cross-examination, may be made to the court.

Application to produce a deponent.

Summons in chambers.

43. A summons to attend before a judge at chambers may be taken out by any person in any matter pending in the court, and the practice and mode of proceeding thereon in all respects shall, as nearly as may be, be similar to, and conform with, the practice and mode of proceeding observed in actions at common law; but all orders made on such summonses shall he filed in the office of the Master in Equity within three days after the pronouncing thereof, or in default thereof shall be deemed to have lapsed.

Applications to the court shall be made to a judge.

44. All motions and applications to the court, except those expressly required to be made by petition, shall be made by summons; but the judge before whom such summons shall be heard may, at the request of either party, or without such request, direct that it shall be heard in open court.

Hearing causes for dissolution of marriage, &c.

45. All causes involving the dissolution of marriage, petitions for reversal of decrees, and all appeals shall be heard at the times now or hereafter to be appointed for the hearing of appeals by the said court in its equity jurisdiction, and all motions in court may be heard on any day on which the court sits for hearing motions in its equity, insolvency, or ecclesiastical jurisdiction.

Judicial separation bond not required.

46. Where a decree of judicial separation has been pronounced, it shall not be necessary for either party to enter into a bond conditioned against marrying again.

Notices and consents must be in writing and signed.

47. Whenever it becomes necessary to give a notice to the opposite party in the cause, or to enter into a consent, such notice and consent shall be in writing, signed by the party or by his or her proctors.

Computation of time.

48. The time fixed by these rules and regulations for bringing in petitions, answers, and pleadings, or for any other proceeding in a cause depending in the court, shall be exclusive of the first day and inclusive of the last, and shall in all cases be exclusive of Sundays, holidays, and of the long vacation.

Power to enlarge time.

49. The court shall, in every case in which a time is fixed by these rules for the performance of any act, have power to extend the same to such time, and with such qualifications and restrictions, and on such terms as to it may seem fit.

Formâ pauperis.

50. Any person desirous of prosecuting a suit in *formâ pauperis* shall lay a case before counsel, and obtain an opinion on such case from him, and a certificate that, in his opinion, such person has reasonable grounds for applying to the court for relief.

Proceedings in *formâ pauperis.*

51. No person shall be admitted to prosecute a suit in *formâ pauperis* without the order of the court; and to obtain such order, the case laid before counsel for his opinion, and his opinion thereon, with an affidavit of the party, or of his or her proctor, that the same case contains a full and true statement of all the material facts, to the best of his or her knowledge and belief, and an affidavit by the party applying that he or she is not worth twenty-five pounds after payment of his or her just debts, save and except his or her wearing apparel, shall be produced at the time such application is made, and the case, opinion, and certificate shall be filed.

52. When a pauper omits to proceed to trial pursuant to notice, he or she may be called upon by summons to show cause why he or she should not pay costs, though he or she has not been dispaupered, and why all other proceedings should not be stayed until such costs shall have been paid. Reg. Gen. — 18 Sept. 1861. Pauper's liability for costs.

53. When an appointment has been made by the proper officer for taxing any bill of costs, and one party only attends at the time appointed, the master or taxing officer may nevertheless proceed to tax the bill after the expiration of a quarter of an hour upon being satisfied by affidavit that due notice of the time appointed was served on the other party. Mode of conducting taxation of costs.

54. If more than one-sixth is deducted from any bill of costs taxed, as between proctor and client, the costs incurred in the taxation thereof shall be deducted from the sum allowed on taxation, if so much remains due; otherwise the same shall be paid by the proctor to the client; and if less than a sixth be deducted, the costs of taxation shall be added to the bill. If more than one-sixth deducted.

55. It shall be lawful for the said court and any judge sitting in chambers or at the trial of any cause, if such court or judge shall see fit so to do, on notice to the opposite party if he or she is not then present either in person, or by his or her proctor, to amend all defects and errors in any proceeding in any cause whether there is anything in writing to amend by or not and whether the defect or error be that of the party applying to amend or not, and all such amendments may be made with or without costs and upon such terms as to the court or judge may seem fit, and all such amendments as may be necessary for the purpose of determining in the existing suit, the real question of controversy between the parties shall be so made.(a) Amendments by the court or a judge.

56. Petitions to the court for the reversal of a decree of judicial separation must set out the grounds upon which the petitioner relies according to Form No. 10. Petition to reverse must set out grounds.

57. The Master in Equity shall act as registrar of the court and except where these rules and regulations otherwise provide shall have the custody of all pleadings and other documents now or hereafter to be brought in and filed in any matter or suit depending in the said court in its divorce and matrimonial causes jurisdiction, and all orders in respect of searches for an inspection or copies of and extracts from and attendances with documents filed in the offices of the Master in Equity shall extend to such pleadings and other documents filed in the said court in its divorce and matrimonial causes jurisdiction, and the Master in Equity and the clerks and other officers of the Supreme Court in its equity jurisdiction shall discharge similar duties in the said court in its divorce and matrimonial causes jurisdiction, and in the registry thereof as they discharge in the said court in its equity jurisdiction. Master in Equity to act as registrar.

58. Office copies of documents furnished from the court will not be collated with the originals from which the same are copied unless specially required. Every copy so required to be examined Office copies.

(a) When a cause came on for hearing the petitioner's counsel applied for leave to amend by striking out the claim for damages. *Held*, that where damages are claimed the petitioner cannot forego them at the hearing, but must obtain the sanction of a judge to amend the record before the cause is set down for trial. *Tyers* v. *Tyers*.—1 W. & W. (I. E. & M.), 63.

Reg. Gen. 18 Sept. 1861.

shall be certified under the hand of the Master in Equity or other officer to be an examined copy.

Rules and practice in equity to be in force.

59. The rules, regulations, practice, and mode of procedure in force in the Supreme Court, in its equity jurisdiction, shall so far as applicable, and where no provision is made by these rules and regulations, be adopted, and be in force in the said court in its divorce and matrimonial causes jurisdiction.(a)

Forms to be observed as nearly as may be

60. The several forms hereunto annexed and numbered respectively from 1 to 10 inclusive shall be followed as nearly as the circumstances of each case will allow, but such forms shall be taken as precedents only, and a rigid adherence to them is not required.

Folios.

61. Every folio shall contain ninety words, and shall be numbered consecutively in the margin of every pleading, affidavit, or other document.

FORMS.

No. 1.—Citation.

In the Supreme Court of the Colony of Victoria.

Divorce and Matrimonial Causes Jurisdiction.

In re [*name and addition of petitioner*].

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To A.B. of

These are to command you that within days of the service hereof on you, inclusive of the day of such service, you do appear in our said court, then and there to make answer to the petition, a copy whereof, sealed with the seal of our said court, is herewith served upon you.

And take notice that in default of your so doing the judges of our said court will proceed to hear the said charge *or* [charges] proved in due course of law, and to pronounce sentence therein, your absence notwithstanding.

(L.S.) (*Signed*) E. F., Master in Equity, or other officer acting for the master.

Indorsement to be made after service.

This citation was duly served by me, G. H., of on the within-named A. B., of at on the day of 18 .

(*Signed*) G. H.

No. 2.—Præcipe for Citation.

In the Supreme Court of the Colony of Victoria.

Divorce and Matrimonial Causes Jurisdiction.

In re [*name and addition of petitioner*].

Citation for A. B. of against C. B. of for a judicial separation for cause of adultery [*or as the case may be*].

(*Signed*) P. A., Proctor for the said C. B. (*or* C. B. in person).

(a) The answer of the respondent may, as to admissions, be therefore read against him.—*Carnaby* v. *Carnaby*, 1 W. & W. (I. E. & M.), 66.

Where a cause is heard before a single judge without a jury, counsel have the same right to be heard as in an equity suit.—*Mackintosh* v. *Mackintosh*, 1 W. & W. (I. E. & M.), 73.

Part of the practice of the court in its equity jurisdiction is taken out of the Act 19 Vict. No. 13, and it is desirable to follow that as far as it is applicable. In appeals it is not applicable as to the deposit of £50 nor as to the appeal being made within 14 days, but it is applicable as to the notice of appeal being lodged in court, as well as being given to the opposite party, and in that respect the practice should be followed. —*Fowler* v. *Fowler*, 2 W. & W. (I. E. & M.), 135.

Petitions for alimony, *pendente lite*, need not therefore be signed.—*Id.* 126.

No. 3.—Petition for [*Divorce*]. Reg. Gen. 18 Sept. 1861.

To their Honors the Judges of the Supreme Court of the Colony of Victoria.
Divorce and Matrimonial Causes Jurisdiction.
In re A. B. [*addition*] and C. B. his wife, formerly C. F. [*name before marriage*].
On the day of in the year of our Lord One thousand eight hundred and

The petition of A. B. sheweth [*here state in paragraphs explicitly the facts upon which the petition is founded*].

Your petitioner therefore humbly prays that your Honors will be pleased to decree [*here set out the relief sought*], and that your petitioner may have such further and other relief in the premises as to your Honors may seem fit.

And your petitioner will ever pray, &c.

No. 4.—Entry of an Appearance.

In the Supreme Court of the Colony of Victoria.
Divorce and Matrimonial Causes Jurisdiction.

A. B., Petitioner, v. C. B., Respondent. } The respondent C. B. appears in person *or* [E. F., proctor, appears for the respondent].

[*Here insert the address required by Rule* 13.]

Entered this day of 18

No. 5.—Form of Answer.

In the Supreme Court of the Colony of Victoria.
Divorce and Matrimonial Causes Jurisdiction.

A. B., Petitioner, v. C. B., Respondent. } The day of 18

The respondent, C. B., by C. D., *her* proctor, *or* [in person] saith [*here admit, deny, or refute the statements contained in the petition, paragraph by paragraph, and state fully and distinctly connivance, condonation, or other matters relied on as a ground for dismissing the petition, and if respondent can truthfully do so, here deny fully and unequivocally past or present connivance or collusion directly or indirectly with the petitioner*].

Wherefore the respondent humbly prays that your honorable court will be pleased to reject the prayer of the said petition, &c.

No. 6.—Notice to admit Documents.

In the Supreme Court of the Colony of Victoria.
Divorce and Matrimonial Causes Jurisdiction.

A. B. v. C. B.

Take notice that the petitioner *or respondent* in this cause proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the respondent *or petitioner* at on between the hours of and and the respondent *or petitioner* is hereby required within forty-eight hours from the last mentioned hour to admit that such of the documents as are specified to be originals were respectively written, signed, or executed, as they purport respectively to have been; that such as are specified to be copies are true copies, and that such documents as are stated to have been served, sent, or delivered, were so served, sent, or delivered respectively, saving all just exceptions to the admissibility of all such documents as evidence in the cause.

To C. B., *or* to E. F., proctor, for

Signed A. B., *or* G. H., proctor, for

[*Here describe the documents.*]

No. 7.—Form of Record.

In the Supreme Court of the Colony of Victoria.
Divorce and Matrimonial Causes Jurisdiction.

A. B., Petitioner, v. C. B., Respondent. } The day of 18

Whereas A. B. affirms and C. B. denies [*here state fully the fact or facts in issue*], and the judges of the said Supreme Court are desirous of ascertaining the truth by the verdict of a jury, and both parties pray the same may be inquired of by the country.

Therefore let a jury come, &c.

Reg. Gen. — 18 Sept. 1861.

No. 8.—Petition for Alimony.

To their Honors the Judges of the Supreme Court of the Colony of Victoria.
Divorce and Matrimonial Causes Jurisdiction.

C. B., Petitioner, v. A. B., Respondent. } The day of 18

The petition of C. B., the lawful wife of A. B.,
Showeth—

1. That the said A. B. has for many years carried on the business of , at , and from such business derives the net annual income of £
2. That the said A. B. holds shares of the Railway Company, amounting in value to £ , and yielding a clear annual dividend to him of £
3. That the said A. B. is possessed of stock-in-trade in his said business of , to the value of £ [*and so on for any other faculties which the husband may possess*].

Your petitioner therefore humbly prays—

That your Honors will be pleased to decree her such sum or sums of money by way of alimony *pendente lite* [*or permanent alimony*] as to your Honors shall seem meet.

And your petitioner will ever pray, &c. (a)

No. 9.—Form of Application under Section VII.

To their Honors the Judges of the Supreme Court of the Colony of Victoria.
Divorce and Matrimonial Causes Jurisdiction.

The application of C. B., of the lawful wife of A. B., showeth—

That on the day of she was lawfully married to A. B., at

That she lived and cohabited with the said A. B. for years at and also at and hath had children issue of her said marriage of whom are now living with the applicant and wholly dependent on her earnings.

That on or about the said A. B., without any reasonable cause deserted this applicant, and hath ever since remained separate and apart from her.

That since the desertion of her said husband this applicant hath maintained herself by her own industry [*or on her own property as the case may be*] and hath thereby and otherwise acquired certain property consisting of [*here state generally the nature of the property*]

wherefore she prays an order for the protection of her earnings and property acquired since the said day of from the said A. B., and from all persons and creditors claiming under him.

No. 10.—Petition for Reversal of Decree.

To their Honors the Judges of the Supreme Court of the Colony of Victoria.
Divorce and Matrimonial Causes Jurisdiction.

The day of 18

The petition of A.B., of showeth:—

1. That your petitioner was, on the day of lawfully married to C. B.
2. That, on the day of your Honors, at the petition of the said C. B., pronounced a decree affecting this petitioner, to the effect following.
   [*Here set out the decree.*]
3. That such decree was obtained in the absence of your petitioner, who was then residing at
   [*state facts tending to show that the petitioner did not know of the proceedings; and further, that had he known he might have offered a sufficient defence, or,*] that there was reasonable grounds for your petitioner leaving his said wife, for that his said wife [*here state any legal grounds justifying the petitioner's separation from his wife*].

Your petitioner, therefore, humbly prays that your Honors will be pleased to reverse the said decree.

And your petitioner will ever pray, &c.

(a) The petition need not be signed by the petitioner.—*Fowler* v. *Fowler*, 2 W. & W. (I. E. & M.), 126.

FEES TO BE TAKEN FOR THEIR OWN USE BY PROCTORS PRACTISING IN THE SUPREME COURT OF THE COLONY OF VICTORIA, DIVORCE AND MATRIMONIAL CAUSES JURISDICTION.

Reg. Gen. — 18 Sept. 1861.

Citations, Subpœnas, Writs, and Service of same.

	£	s.	d.
Citation, including præcipe	0	10	0
Certificate of service	0	3	6
Subpœna ad testificandum and præcipe	0	10	0
Subpœna duces tecum, if five folios or under, and præcipe	0	12	0
If the subpœna exceeds five folios in length, for each additional folio ...	0	1	6
Writ of attachment, including præcipe	0	10	0
Writ of sequestration, including præcipe	0	10	0
Service of citation, petition, or subpœna, if within two miles of the place of business of the petitioner or of the person employed to effect the service	0	7	6
If beyond that distance and not exceeding ten miles, for every mile one way	0	1	6
Drawing and engrossing affidavit of service, if three folios or under ...	0	7	6
If above, for every additional folio, including a copy for the court ...	0	2	0

In cases in which the person to be served shall avoid service, or shall reside beyond the jurisdiction, a sum to be allowed for service according to the circumstances.

Instructions.

Instructions for citations, petitions, answers, or other pleadings, for interrogatories, special affidavits, or applications for an order for protection of a wife's earnings and property	0	10	0
Ditto to defend suit	0	10	0
Ditto for brief or case for hearing	1	0	0

If there are several witnesses examined and the brief or case is necessarily long or difficult, discretionary.

Pleadings.

Drawing and engrossing petition, if ten folios or under, including a copy to file	1	10	0
If exceeding ten folios, for every additional folio, including a copy to file...	0	2	0
Drawing and engrossing answers, replications, and other subsequent statements, petitions for alimony and answers thereto, if ten folios or under, including a copy to file	1	10	0
If exceeding ten folios, for every additional folio, including a copy to file	0	2	0
Copies of petitions, answers, and other pleadings, also of exhibits or other documents, at per folio	0	0	8

If any exhibit or other document to be copied, or any part thereof, contains pencil marks or writing, or the copy thereof, or any part thereof is required to be made a fac-simile in addition to any other fee for the copy:

For every folio of pencil marks or writing or fac-simile or part of a folio, discretionary.

Drawing the record, if fifteen folios or under, including copy to file ...	0	15	0
If exceeding fifteen folios, for every additional folio, including copy to file	0	1	0
Engrossing record, to file, at per folio, exclusive of parchment	0	1	0
For case for motion, including fair copy for the judge	0	15	0
If necessarily more than seven folios in length, for every additional folio, including copy for the judge	0	2	0
Copy for adverse party, per folio	0	0	8
Drawing and engrossing demurrer, inclusive of the statement of any matter of law to be argued, for ten folios or under	0	15	0
If exceeding ten folios, for every additional folio	0	1	6
Copy of the issue on demurrer, at per folio	0	0	8
Drawing bill of costs per folio, including copy for taxation	0	1	6
Copy for adverse party, per folio	0	0	8

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	£	s.	d.
Drawing any instrument to be filed in or issued by the registry, for which no other fee is herein allowed, inclusive of fair copy to be filed or issued, per folio	0	2	0
For perusing and abstracting pleadings, affidavits, exhibits, and other documents, per folio	0	0	8

Notices.

All necessary notices of three folios or under, inclusive of copy and service	0	7	6
If exceeding three folios, for every additional folio, including copy and service	0	1	6
Copies of notices to file (if necessary), per folio	0	0	8
In all cases where service of a notice is necessary beyond two miles of the place of business of the practitioner or of the person employed to effect service the same fee as upon the service of a citation.			
Copy of summons, or order of the judge, or rule, and service	0	7	6

Attendances.

On entering appearance or issuing process	0	7	6
To search for appearance to citation	0	7	6
On counsel with brief, when the fee to counsel is one guinea	0	5	0
When the fee to counsel exceeds one guinea and is under five guineas ...	0	10	0
When the fee is five guineas and upwards	0	15	0
On consultation	1	0	0
On conference	0	10	0
In pursuance of notice to admit	0	10	0
Or discretionary, not to exceed per diem	3	3	0
On trial or hearing when cause is in paper and not tried or heard or on motion in court	1	0	0
On trial or hearing	2	2	0
Or discretionary, not to exceed per diem	3	3	0
Clerk's attendance, discretionary if more than one trial or in special cases, not exceeding per day, inclusive of expenses, except travelling ...	1	10	0
On taxation of bill of costs	1	0	0
If very long, or several attendances, discretionary.			
On examination of witnesses under a commission, per diem, same as on trial or hearing.			
If at a distance from place of business of practitioner, for every additional day necessarily absent	5	5	0
Travelling and other expenses reasonably and actually paid.			
For all necessary attendances in chambers before a judge, or before a commissioner or counsel, or at the office of the Master in Equity or upon the adverse parties or practitioner for which no other fee is herein allowed	0	10	0

Briefs, Cases for Hearing, Letters, etc.

For drawing brief or case for hearing, per folio	0	1	6
For each copy, per folio	0	0	8
Every necessary letter during the dependence of the cause	0	5	0
Term fees, letters, and messengers	1	0	0
For maps or plans, each from ... ... 1 1 0 to	3	3	0
Copies of same, if required, each from ... ... 0 10 0 to	1	0	0

Affidavits.

For drawing affidavit, if five folios or under, including copy for the court or registry	0	10	0
If above five folios, for each additional folio, including copy for the court	0	2	0

Interrogatories.

For drawing the same at per folio	0	1	6
Copy thereof to be delivered to the examiner and filed at per folio ...	0	0	8
If it becomes necessary for proctors to transact any business for which no fee is herein specified, such fee shall be taken by them as would be allowed for similar business done in the courts of common law and equity, as the case may be			

FEES TO BE TAKEN FOR THE USE OF OTHER PERSONS BY THE PROCTORS PRACTISING IN THE SUPREME COURT IN ITS DIVORCE AND MATRIMONIAL CAUSES JURISDICTION.

Reg. Gen. — 18 Sept. 1861.

COUNSEL'S CLERKS FEES.

Not to exceed as under—	£	s.	d.
Upon a fee to counsel under 5 guineas	0	2	6
5 guineas and under 10 guineas	0	5	0
10 guineas and under 20 guineas	0	10	0
20 guineas and under 30 guineas	0	15	0
30 guineas and under 50 guineas	1	0	0
50 guineas and upwards at per cent. on the fee paid	2	10	0
On Consultations—			
Senior's clerk	0	7	6
Junior's clerk	0	2	6
On general retainer	0	15	0
On common retainer	0	2	6
On conference	0	5	0

WITNESSES' EXPENSES.

Allowance to Witnesses, including their board and lodging:—

Common witnesses, such as laborers, journeymen, &c., &c.—			
If resident within five miles of the Post Office, Melbourne, per diem...	0	5	0
If resident beyond the distance, per diem, from	0	7	6
Master Tradesmen, Yeomen, Farmers, &c.—			
If resident within five miles of the General Post Office, per diem, from	0	8	0
If resident beyond the distance, per diem, from	0	13	0
Auctioneers from ... ... 0 15 0 to	1	10	0
Accountants from ... ... 1 1 0 to	2	2	0
Professional Men—			
If resident within five miles of the Post Office, Melbourne, per diem	1	1	0
If resident beyond that distance, per diem, from	2	2	0
Clerks to Attorneys, or others—			
If resident within five miles of the Post Office, Melbourne, per diem...	0	15	0
If resident beyond that distance, per diem, from	1	1	0
Engineers and Surveyors—			
If resident within five miles of the Post Office, Melbourne, per diem...	1	1	0
If resident beyond that distance, per diem, from	2	2	0
Notaries, per diem	1	1	0
Esquires, Bankers, and Merchants, per diem ... ... from	0	15	0
Females according to station in life—			
If resident within five miles of the Post Office, Melbourne, per diem from 2s. 6d. to	0	7	6
If resident beyond that distance, per diem, from ... 2s. 6d. to	0	15	0
Police Inspector—			
If resident within five miles of the Post Office, Melbourne, per diem...	0	10	0
If resident beyond that distance, per diem, from ... ... 10s. to	1	0	0
Police Constable—			
If resident within five miles of the Post Office, Melbourne, per diem...	0	8	0
If resident beyond that distance, per diem, from ... ... 8s. to	0	15	0

The travelling expenses of witnesses will be allowed according to the sums reasonably and actually paid, but in no case will there be an allowance for such expenses of more than 1s. 6d. per mile one way.

(Signed) WILLIAM F. STAWELL, Chief Justice.
REDMOND BARRY.
EDWARD EYRE WILLIAMS.
ROBERT MOLESWORTH.

FEES OF COURT IN PROCEEDINGS UNDER THE DIVORCE AND MATRIMONIAL CAUSES ACT.(a)

Order. 2 Oct. 1861.

In pursuance of the provisions of the 38th clause of the Act 25 Victoria No. 125, intituled, "*An Act to amend the Law relating to Divorce and Matrimonial Causes*," the Governor in Council has fixed the fees specified in the annexed scale as the fees to be payable upon proceedings under the said Act, viz.:—

SCALE OF FEES ON PROCEEDINGS UNDER THE DIVORCE AND MATRIMONIAL CAUSES ACT, 25 VICTORIA No. 125.

To be taken in the Office of the Master in Equity.

	£	s.	d.
Filing—			
Every petition	0	5	0
Every answer, reply, or other pleading or statement in nature of a pleading	0	5	0
Every application for order for protection or for discharging any such order	0	5	0
Engrossment of proceedings on parchment	0	5	0
Every præcipe, citation, affidavit, appearance, address, notice, or other document not herein specially provided for	0	1	0
Entering—			
Appearance	0	2	6
Address	0	2	6
Decrees and orders, per folio	0	0	6
Issue of Writs, &c.—			
Signing and sealing every citation	0	5	0
Every subpœna	0	5	0
Every writ of fieri facias, attachment, or other writ not herein specially provided for...	0	5	0
Sealing copy petition	0	5	0
Affixing seal of court to any commission or other document ...	1	0	0
Decrees and Orders—			
For every decree	1	0	0
For every order of the court	0	10	6
Settling—			
Every advertisement	0	5	0
Perusing and settling every settlement, or deed connected therewith, if not exceeding 30 folios	1	0	0
Exceeding 30 and not exceeding 50 folios	1	10	0
Exceeding 50 and not exceeding 100 folios	2	10	0
Exceeding 100 folios	3	0	0
Examining engrossment, with draft affidavit not exceeding 15 folios...	0	3	4
If exceeding 15 folios, then for every 15 folios	0	3	4
Settling every bond, recognizance, or other deed or document not herein specially provided for, per folio	0	0	6
Signing approval	0	5	0
Oaths and Exhibits—			
For each oath administered	0	1	6
Signing each exhibit	0	0	6
Mem.—The like fees to be taken by commissioners for taking affidavits.			
Miscellaneous—			
For setting down cause for hearing	0	10	0
For setting down motion or other application	0	5	0
Every office search	0	1	0
If same exceed half an hour	0	2	6

(a) This, though not a rule of the Supreme Court, is placed here for convenience of reference.

	£	s.	d.
Receiving or handing over exhibits or other documents deposited, and comparing same with schedule...	0	5	0
Posting every notice	0	1	0
Office copy, per folio	0	0	6
Certified copy, per folio...	0	0	9
Every master's warrant...	0	3	0

Order. — 2 October 1861.

Taxing costs, 2½ per cent. in the amount allowed.

For any other proceeding not herein specifically provided for, the same fees as for the like or analogous proceedings in equity.

FEES TO BE TAKEN IN THE JUDGES' CHAMBERS.

For every summons	0	2	0
For every order thereon	0	3	0
For filing every affidavit	0	1	0

Mem.—All affidavits filed with the associate, and used before a judge in chambers, are to be forwarded by the associate to the Master in Equity forthwith after the application to which they relate shall have been disposed of.

FEES TO BE TAKEN IN THE PROTHONOTARY'S OFFICE.

For every office search	0	1	0
For office copies, per common law folio	0	0	6
For entering for trial	1	11	6
For rule of court	0	5	0
Filing any affidavit, notice, or other document	0	1	0
Sealing any writ	0	10	6
Seal of court	1	1	0
Jury fee (21 Victoria No. 19)	14	0	0

For any other proceeding not above specifically provided for, the same fees as for the like or analogous proceedings in an action at common law.

By His Excellency's Command,
B. COLE ASPINALL,
Attorney-General.

Crown Law Offices,
Melbourne, 2nd October 1861.

In the Supreme Court of the Colony of Victoria.

REGULA GENERALIS.

Saturday the twenty-fifth day of July in the year of our Lord One thousand eight hundred and sixty-three.

Reg. Gen. — 25 July 1863.

That all acts of a merely ministerial nature in the equitable, *ecclesiastical*,[a] and divorce and matrimonial causes jurisdiction of this court, such as the signing and issuing of writs, decrees, orders, probates, and letters of administration, signing decrees, orders, and allocaturs previously settled, which, according to the rules and practice of this court, are required to be done or signed by the Master in Equity may, during his absence on leave published in the *Gazette*, be done or signed by the chief clerk in the office of the said master or other person in that behalf appointed by the judges.

By the Court,

(L.S.)

(a) This is now termed the *Probate* jurisdiction. See the Rules, 23rd June 1873, *post*.

In the Supreme Court of the Colony of Victoria.

REGULÆ GENERALES.

Dated the tenth day of May in the year of our Lord One thousand eight hundred and sixty-five.

Reg. Gen. 10 May 1865.

FEES OF COURT PAYABLE IN PROCEEDINGS UNDER "THE COMPANIES STATUTE 1864."

Fees to be taken in Judges' Chambers.

	£	s.	d.
Filing list of debts or contributors	0	1	0
Filing account of liquidator	0	1	0
Filing affidavit	0	1	0
Search in matters pending	0	1	0
Search in matters concluded	0	2	6
Entering appearance	0	1	0
Signing summons	0	3	0
Signing order thereon	0	5	0
Signing other orders	0	5	0
Signing every advertisement	0	5	0
Signing certificate of allowance of or passing final account of liquidator of company having been wound up, or any other certificate required...	0	5	0
Countersigning any cheque or signing any memorandum	0	2	6
Settling any conditions or contracts for sale, ordinary	0	5	0
Settling any conditions or contracts for sale, special	1	1	0
Certifying office copies of any order or any document, per folio of 90 words	0	0	3
Every proof of debt admitted by a judge	0	1	0
Filing any other document not herein provided for	0	1	0

Fees Payable in the Office of the Master in Equity.

	£	s.	d.
Filing every petition	0	5	0
Filing every affidavit or other document	0	1	0
Search in proceedings pending	0	1	0
Search in proceedings concluded	0	2	6
Copies, office or other, per folio of 90 words	0	0	6
Sealing any writ	0	10	6
Sealing any commission or document, Supreme Court seal	1	0	0
For every subpœna issued, or summons	0	7	6
Signing every decree or order	0	10	6
Entering same, per folio of 90 words	0	0	6
Setting down matter for hearing	0	10	0
Setting down matter on motion	0	5	0
Signing report or certificate	1	0	0
Entering same, per folio of 90 words	0	0	6
Settling ordinary advertisement	0	5	0
Settling special advertisement	1	1	0
Settling any conditions of sale, ordinary	0	5	0
Settling any conditions of sale, special	1	1	0
For every warrant or appointment	0	3	0
Inspection of proceedings or taking copies or extracts, per hour ...	0	3	4
Signing the allowance of any document or account not herein mentioned...	0	5	0

Taxation of costs, 2½ per cent.

For all other business not provided for specially herein, the same fees are to be charged as are now paid for the like or analogous business in the equitable jurisdiction of this court.

Fees to be collected in the Office of the Chief Commissioner of Insolvent Estates.

The like fees to be charged as are now payable for analogous business in the said court.

Witnesses' expenses the same as at common law.

Reg. Gen. 10 May 1865.

SOLICITORS' CHARGES.

	£	s.	d.
Instructions for petition or to oppose	1	0	0
Instructions for affidavits, special	0	10	0
Instructions for affidavits, common	0	5	0
Instructions for briefs	1	0	0
Instructions for briefs, if difficult, discretionary.			
Instructions to counsel on special matters	0	10	0
Instructions to counsel on common matters	0	5	0
Drawing petitions, advertisements, notices, affidavits, conditions or contracts for sale, certificates, summonses, orders, decrees, bills of costs for taxation, or other proceedings or documents, per folio of 90 words	0	1	6
Engrossing and copying proceedings on parchment, per folio of 90 words ...	0	1	0
Engrossing and copying proceedings on paper, per folio of 90 words ...	0	0	6
Engrossing briefs, per folio of 90 words	0	0	8
Perusing petition, articles of association, letters patent, deeds of settlement, contract of co-partnership or other instrument constituting or regulating the company, not exceeding 30 folios	0	10	0
Every additional 30 folios	0	10	0
Not exceeding in all	3	0	0
Attendances—To insert advertisements, to file any proceedings, bespeak or obtain office copies, to consent to any summons, obtain judge's summons, enter name or address in appearance book, and other like attendance	0	5	0
Attendances—To serve petition, order, notice, or proceeding, within two miles of place of business of attorney effecting service	0	10	0
For every extra mile beyond two	0	1	6
Correspondents' charges for service, including affidavit of service, but exclusive of mileage	1	10	0
Attending on deponent to be sworn	0	5	0
Attending to set down matter for hearing	0	10	0
Attending all common searches	0	5	0
If long, discretionary.			
Attending to inspect, in pursuance of notice to admit	0	10	0
Attending to make admissions	0	10	0
Attending every hour beyond one	0	10	0
Attending on warrant or appointment before the Master in Equity, Commissioner of Insolvent Estates, or judge of the county court or of the court of mines	1	0	0
Attending for every hour after the first	0	10	6
Attending on common summons before a judge	0	10	0
Attending on special summons before a judge	1	0	0
Attending on hearing matter before court	2	2	0
Attending for every hour after the first	0	10	6
Attending for each day matter in list not reached	1	0	0
Attending each counsel with brief—			
Fee not over 20 guineas	0	10	0
Fee above 20 guineas	0	15	0
Attending with brief on motion—			
If above 2 guineas fee	0	10	0
If 2 guineas only	0	5	0
Attending on consultation or conference with counsel	1	0	0
Taxation of costs, according to time occupied.			
Term fees and letters—			
Proper business	1	0	0
Agency	1	5	0
Letters where no term fee allowed	0	5	0
Agency, proper business	0	7	6
Letters, proper business	0	5	0
Circular letters—After the first	0	2	6
Miscellaneous—			
Notices to admit or produce	0	10	0
Notices to admit or produce, if long	0	15	0
Notices to admit or produce, if very long and special, discretionary.			
The above charges include copy and service, but an allowance for mileage as upon service of notice is to be added.			
Close copies in agency cases, per folio of 90 words	0	0	6
Clerk's fee—			
Where company wound up or brought under statute, or where witnesses have been examined *vivâ voce*	1	10	0
For maps, plans, and models when used, discretionary.			

Reg. Gen. — 10 May 1865.

COUNSEL AND THEIR CLERKS.

Clerk's fee, on a fee under 5 guineas	0	2	6
Clerk's fee, on a fee 5 guineas and under 10	0	5	0
Clerk's fee, on a fee 10 guineas and under 20	0	10	0
Clerk's fee, on a fee 20 guineas and under 30	0	15	0
Clerk's fee, on a fee 30 guineas and under 50	1	0	0
Clerk's fee, on a fee 50 guineas and upwards, per cent.	2	10	0
Senior clerk on consultation	0	7	6
Junior clerk on consultation	0	2	6
Clerk's fee on general retainer	0	15	0
Clerk's fee on common retainer	0	2	6
Clerk's fee on conference	0	5	0

Witnesses' expenses, the same as at common law.

All other business not hereinbefore provided for to be allowed for in the same manner as analogous business in equity or insolvency, as near as the circumstances will allow.

(Signed) WILLIAM F. STAWELL.
REDMOND BARRY.
EDWARD EYRE WILLIAMS.
ROBT. MOLESWORTH.

In the Supreme Court of the Colony of Victoria.

REGULÆ GENERALES.

Dated the tenth day of July in the year of our Lord One thousand eight hundred and sixty-five.

Reg. Gen. — 10 July 1865.

1. The Prothonotary shall make out two several lists of causes, one for trial or inquiry before juries of twelve special jurors, and one for trial or inquiry before juries of four special jurors, and shall enter all causes in the several lists in the order and according to the priority of time in which they are brought to his office to be entered in the manner hereinafter mentioned.

2. Not more than two causes for trial before a jury of twelve special jurors, and not more than five causes for trial before a jury of four special jurors shall be entered for trial on any one day; and when the number of days set apart for the trial of such causes shall have been exhausted, all additional causes either for trial or inquiry may be entered for days subsequent to the sittings, subject to an order being made extending the sittings to such days.

3. In addition to the causes hereinbefore mentioned, any number not exceeding four causes for inquiry as to damages may be entered for each day if the Prothonotary shall see fit.

4. All causes shall be set down for each successive day, and no cause shall be entered for any day (excepting the first day) until the list be full for the previous day

5. Where the plaintiff, having regard to the time required for giving notice of trial, is unable to set down his cause, any judge

may upon summons (at the plaintiff's own cost) make an order giving leave to enter it for the first available day, any rule or order to the contrary notwithstanding, unless it appear or there be reason to suppose that the plaintiff might have given notice of trial earlier. Reg. Gen. — 10 July 1865.

6. When two judges shall sit simultaneously and apart from each other for the business of trying issues of fact or inquiry of damages in civil actions, those causes for trial or inquiry before a jury of twelve special jurors shall be had before one of such judges, and those for trial or inquiry before a jury of four special jurors shall be had before the other of such judges in like manner as if such causes respectively were pending in separate courts.

7. If the list of causes in one court is likely to be or shall have been disposed of before that in the other court, the presiding judges may make such arrangements as they may think convenient for the trial of the causes remaining in the list undisposed of, and for that purpose may, if such causes are for trial or inquiry before a jury of four special jurors, divide such list and direct the trial of any such cause or causes to be proceeded with simultaneously with any other of the causes left in the list undisposed of, provided that no cause be tried prior to the day for which it is entered for trial.

8. Nothing herein shall be deemed to prevent any judge from making any order as to the trial or entering for trial of any cause as to such judge may seem fit and the justice of the case may require.

9. The associate of every judge sitting at *nisi prius* shall on the first and every subsequent day of every such sittings cause to be posted on the outer door of the Court House the names of the causes for trial on the next day of such sittings.

WILLIAM F. STAWELL.
REDMOND BARRY.
EDWARD EYRE WILLIAMS.
ROBT. MOLESWORTH.

In the Supreme Court of the Colony of Victoria.

REGULÆ GENERALES.

The thirteenth day of May in the year of our Lord One thousand eight hundred and sixty-eight.

In pursuance of the provisions of an Act of the Legislature of Victoria, the 15 Victoria, No. 10, section 32, we, the judges of the Supreme Court, hereby order as follows:— Reg. Gen. — 13 May 1868.

1–4.—[*Relating to practice in the ecclesiastical jurisdiction; repealed by Reg. Gen.*, 23 *June* 1873, post.]

Reg. Gen. 13 May 1868.

5. That the 4th, 5th, 6th, and 7th sections of the said rules, chapter 10, be repealed, save as to the number of words to be contained in a folio, and that affidavits complying with the conditions of "*The Common Law Procedure Act*," sections 378, 379, 380, and 381, be deemed sufficient in all branches of the jurisdiction of this court.

WILLIAM F. STAWELL.
REDMOND BARRY.
EDWARD EYRE WILLIAMS.
ROB. MOLESWORTH.

RULES OF THE SUPREME COURT UNDER THE "INSOLVENCY STATUTE 1871."

Reg. Gen. 10 Feb. 1871. (a)

WHEREAS by the "*Insolvency Statute* 1871," section 25, it is provided that the judges of the Supreme Court may make rules in the same way as rules of the Supreme Court might then be made for the purpose of giving effect to the said Act in all matters in which jurisdiction is thereby given to the Supreme Court, or a judge thereof: Now we, the judges of the Supreme Court, in pursuance of the said enactment, make the following rules :—

1. That the primary judge will hear appeals under the 12th section of the said Act on every Thursday during the year, except in the interval from the 25th of December to the 31st of January (both inclusive), the times appointed for the sittings of the full court in equity appeals, the sittings of the Chief Judge of the Court of Mines, and the several holidays mentioned in the "*Common Law Procedure Statute* 1865," and also such other days as the judge may appoint for special business. And every appeal shall be heard on such day of hearing as shall occur first after one clear week from the notice of appeal, or such day or days of adjournment as the judge shall appoint; and the full court will hear appeals from a single judge during the time appointed for equity appeals.

2. That the officer of the Supreme Court to whom the judge shall forward his notes of evidence and statement of reasons under the 12th section shall be the associate of the primary judge for the time being.

3. That notice in writing of intention to oppose an order *nisi* for compulsory sequestration, and of the grounds of opposing the same under section 45 of the said Act, shall be filed in the office of Alexander O'Grady Rose, now the associate of the primary judge, or the associate of the primary judge for the time being.

(a) This is the date of the publication of these rules in the *Government Gazette*. The date of the making of the rules does not appear.

4. That the said associate of the primary judge for the time being shall tax the costs awarded by any order of the Supreme Court or any judge thereof under the said Act subject to review. Reg. Gen. 10 Feb. 1871.

5. That the associate of the primary judge, or of any judge of the Supreme Court making an order *nisi* for sequestration under the fourth part of the said Act, may sign office copies thereof for service under the 44th section of the said Act.

WILLIAM F. STAWELL.
REDMOND BARRY.
EDWARD EYRE WILLIAMS.
ROBT. MOLESWORTH.

FURTHER RULES OF THE SUPREME COURT UNDER THE "INSOLVENCY STATUTE 1871."

WHEREAS by the "*Insolvency Statute* 1871," section 25, it is provided that the judges of the Supreme Court may make rules in the same way as rules of the Supreme Court might then be made for the purpose of giving effect to the said Act in all matters in which jurisdiction is thereby given to the Supreme Court or a judge thereof: Now we, the judges of the Supreme Court, in pursuance of the said enactment, make the following further rules, and direct that they come into force from the 14th day of August 1871 :— Reg. Gen. 2 August 1871.

1. The petition to a judge of the Supreme Court for an order *nisi* for sequestration under the 39th section of the Act shall be generally verified by the affidavit of the petitioning creditor or creditors, or one of them, as to all the material facts therein stated, and the date of the alleged act of insolvency, or by the affidavit of the duly authorized agent or agents of such creditors or creditor, stating besides the verification of the petition, that he is duly authorized and disclosing facts within his own knowledge which account for the inability of the creditors or creditor to verify the same; and such petition shall also be verified by the affidavit of the sheriff's officer or other person best informed of the fact of the alleged act of insolvency; but the judge may under circumstances dispense with the above affidavits, or require further evidence by affidavit or *viva voce* examination upon the above or other matters.

2. The petition and affidavits used for obtaining any such order *nisi* shall, before the same is signed by the judge, be deposited with him or his associate.

3. The associate of the primary judge may issue separate summonses for the examination of witnesses upon the hearing of an order *nisi* for compulsory sequestration.

4. All documents used for obtaining an order *nisi* for compulsory sequestration from a court of insolvency under the said 39th section, and such order *nisi* shall be deposited with the associate of the primary judge before the hearing thereof, for use at the said hearing or appeals to the Full Court.

Reg. Gen. — 2 August 1871.

5. All orders made by a single judge exercising the powers of the Supreme Court, either in disposing of orders *nisi* for compulsory sequestration or otherwise, in insolvency, may be signed by the associate of such judge, and all orders of the full court upon appeals may be signed by the Master in Equity.

6. When an order *nisi* is made absolute and the petitioning creditor shall not take out the same within one week, any person interested may apply by summons before a judge for liberty to take out the same, and the judge may direct accordingly, and order the petitioning creditor to pay the costs and fees necessary for taking out the order and the costs of the application.

7. When an order *nisi* for a compulsory sequestration made by a court of insolvency is made absolute or discharged, or such order made by a judge of the Supreme Court is made absolute by a single judge and there is no appeal, or the appeal is disposed of making the order absolute, the associate of such judge shall forward the petition, affidavits, and other documents used at the hearing, to the chief clerk of the district court of insolvency to be filed in such court.

8. The fees payable to solicitors for proceedings before the Supreme Court or judge thereof, in the insolvency jurisdiction, shall be the same as allowed by the higher scale under the "*Common Law Procedure Statute* 1865."

9. The fees payable to the Crown or the consolidated revenue of Victoria for proceedings before the Supreme Court or a judge thereof in the insolvency jurisdiction shall be those contained in the following schedule :—

SCHEDULE OF FEES.

	£	s.	d.
Upon every petition for compulsory sequestration, or any other object ...	0	5	0
For every affidavit	0	1	0
For every order *nisi* for compulsory sequestration	0	10	0
For every order absolute for compulsory sequestration when the order *nisi* is by a judge of the Supreme Court	1	3	0
[*This fee has reference to the Government not charging for court advertisements in the* Gazette, *and as to* 18s. *should be dependent on no charge being made.*]			
For every order absolute for compulsory sequestration when the order *nisi* is by an insolvent court, an additional fee equal to the fees which should be paid on the order *nisi* and affidavits if it were made by a judge of the Supreme Court.			
[*This fee has reference to there being no fee on such order* nisi, *and should be dependent upon no fee being charged.*]			
For every other order of the court or a judge thereof	0	5	0
For every summons to give evidence	0	5	0
For examining and certifying office copies, 1s. for the first folio of ninety words, and 1s. additional for each succeeding ten folios or parts of folios.			
For taxing costs in any case 3d. in the pound upon the amount allowed in the allocatur.			

Dated this second day of August 1871.

REDMOND BARRY.
EDWARD EYRE WILLIAMS.
ROBERT MOLESWORTH.
ROBERT WILLIAMS POHLMAN.

In the Supreme Court of the Colony of Victoria.

REGULÆ GENERALES.

Reg. Gen. 3 Dec. 1872.

WHEREAS it is expedient to repeal the rules of the said court passed on the twenty-third day of December in the year of our Lord One thousand eight hundred and sixty-five, in lieu of chapter II., and to substitute others instead thereof, it is therefore ordered as follows:—

1. *Repeal of Rules of 23rd December* 1865.—The said rules of the said court, and all rules for the admission of barristers and attorneys heretofore existing, shall be and the same are hereby repealed.

PART I.

ADMISSION OF BARRISTERS TO PRACTISE IN THE SAID COURT.

2. *Board of Examiners for Barristers.*—There shall be a board of examiners in the said court, which shall be called the Board of Examiners for Barristers, and shall consist of Her Majesty's Attorney and Solicitor-General, and Her Majesty's counsel in the said colony, and five practising barristers of the said court, who shall be elected in the manner hereinafter provided.

3. *Election of practising barristers.*—Every practising barrister of the said court desirous to vote shall, on or before the 10th day of December in each year, signify in writing, signed by him and addressed to the existing board, the names of the practising barristers whom he proposes shall act for the ensuing year as members of the board; and those for whom the highest number of votes shall be given shall be members of the board, but in case of an equality of votes the existing board shall determine the matter by lot: Provided that, in default of such election, it shall be competent for the judges of the said court to appoint such practising barrister or barristers; and if any vacancy shall at any time occur, the same may be filled up by the election or appointment (as the case may be) of any other practising barrister.

4. *Meetings and quorum of the board.*—The board shall meet as occasion may require, and may adjourn its meetings if deemed necessary; and three barristers shall form a quorum for the transaction of business; and the majority of members present shall decide all questions which may arise, and in case of an equality of votes at any such meeting or adjournment, the chairman shall have a casting as well as a deliberative vote.

STUDENTS-AT-LAW.

5. *Qualification.*—Every person applying to become a student-at-law—

(1.) Shall be a natural-born or naturalized British subject of good fame and character, and

(2.) A matriculated student of the University of Melbourne, or an undergraduate of some university admitted *ad*

Reg. Gen.
3 Dec. 1872.

eundem statum in the University of Melbourne, or a bachelor of arts of some university recognised by the University of Melbourne.

(3.) Shall, before the term next preceding that in which he proposes to be admitted, give to the secretary of the said board, in the form "A" to these rules annexed, written notice of his intention to apply to be admitted as a student-at-law, together with a certificate in the form "B" to these rules also annexed, and

(4.) Shall in person make his application to the said board for admission as a student-at-law.(a)

6. *Board to meet every term.*—The board shall meet once in every term for the purpose of considering the application of every person desirous of becoming a student-at-law, and if it shall appear to the board that such person is a fit and proper person to be admitted, and has complied with the regulations in that behalf hereinbefore contained, they shall give to him under their hands a certificate of admission, and every such certificate shall be dated on the day of the term in which it is given.

7. *Students to sign the roll book.*—The Secretary of the Board of Examiners shall keep a book to be called "The Students' Roll Book," and every person to whom any certificate of admission shall have been given shall make and sign in such book a declaration in the form "C" to these rules annexed, and from the time of signing the same shall be deemed to have become a student-at-law.

8. *Studentship.*—Every person admitted as a student-at-law—

(1.) Shall not, during any part of his studentship, be an

Attorney, solicitor, proctor, or notary public in any part of the British dominions,

Writer to the signet, or writer in any Scotch court,

Parliamentary agent, or clerk to any such person, or to any barrister;

(2.) Or cease, during any part of his studentship, to reside in Victoria. But if any such student be compelled or desire to leave Victoria in consequence of ill health, or for any other urgent cause, he shall give notice in writing to the secretary of the board of examiners, which notice shall specify—

(*a.*) The time of his projected departure,
(*b.*) The country to which he intends to proceed,
(*c.*) The true cause of his intended absence,
(*d.*) The probable duration thereof.

And the time of his absence from Victoria shall not be included in the period of his studentship, unless the board shall think proper to allow the same or some part thereof.

(a) Where the applicant had omitted to attend and apply for his certificate, on the ground that he had supposed he would have received some notice of the meeting of the board, but none had ever been given to him, the court refused to order the certificate to issue *nunc pro tunc*.—*Ex parte Ferguson*, 4 A.J.R., 29.

[*From the "Victoria Government Gazette" of 20th September* 1878.

No. 100.]

RULE OF THE SUPREME COURT.

IT is hereby notified that the subjoined Rule, made by the Supreme Court of the Colony of Victoria, and dated the tenth day of August in the year of our Lord One thousand eight hundred and seventy-eight has been duly laid before Parliament (15 Vict., No. 10, sec. 32).

BRYAN O'LOGHLEN,
Attorney-General.

Crown Law Offices,
Melbourne, 16th September 1878.

In the Supreme Court of the Colony of Victoria.

REGULA GENERALIS.

Saturday the tenth day of August in the year of our Lord One thousand eight hundred and seventy-eight.

WHEREAS it is expedient to promote reciprocity in the matter of admission to the Bar in the colonies of Victoria, New South Wales, and Queensland, it is ordered as follows:—

Any person duly admitted to practice as a barrister in the Supreme Court of New South Wales or of Queensland shall be entitled to be admitted to practice as a barrister in the Supreme Court of Victoria upon the like terms and conditions and payment of the like fees respectively as those upon which any person who shall have been duly admitted to practice as a barrister in the Supreme Court of Victoria shall for the time being be entitled to be admitted to practice as a barrister in the Supreme Court of New South Wales or of Queensland respectively.

(Signed) WILLIAM F. STAWELL,
(Signed) REDMOND BARRY,
(Signed) ROB. MOLESWORTH.

By Authority: JOHN FERRES, Government Printer, Melbourne.

admission is to be moved. When a notice was about to be given too soon, but the

the judge affirmed their decision.—*Ex parte Skinner*, 2 V.L.R. (L.), 79.

Reg. Gen. 3 Dec. 1872.

appoint, and the said court may, upon hearing thereof, dismiss or allow such appeal, or make such other order as to the said court may seem fit.

13. *Admission to the bar.*—No person shall be admitted to practise as a barrister in the said court except upon his appearing in person in the said court, and upon reading the proper certificate or the order of the court, and no motion shall be made for any such admission on any other but the last day of term, or on any special adjournment thereof.

14. *Fees.*—The following fees shall be paid:— Guineas.

On lodging with the secretary the notice in the form A	5
Before receiving certificate or order mentioned in rules 11 and 12	50

15. *All notices to be posted.*—The Secretary of the Board of Examiners shall reduce all notices into an alphabetical list, under convenient heads, and shall, on the first day of the next term affix such list in some conspicuous place in the library of the Supreme Court, and such list shall remain so affixed until the commencement of the next following term.

16. *Not to apply to previous applicants, &c.*—Nothing hereinbefore contained shall affect any person who has already delivered the first certificate, or given the first notice required by any rules heretofore existing, and every such person may be admitted as if the said rules had not been repealed; and the Board of Examiners for Barristers and the secretary shall have the like powers and perform the like duties in regard to every such person as would have been had and performed by the board and secretary under the said rules if the same had not been repealed: Provided that a certificate of matriculation in the University of Melbourne or, after examination, in any university recognised by the University of Melbourne shall, at the option of the candidate for admission, be taken by the said board instead of and as a substitute for an examination in the first five subjects set out in section 12 of chapter II. of the rules of court bearing date the first day of February One thousand eight hundred and fifty-four.

PART II.

ADMISSION OF ATTORNEYS, SOLICITORS, AND PROCTORS TO PRACTISE IN THE SAID COURT.

17. *Board of Examiners for Attorneys.*—The Board of Examiners of the Supreme Court for Attorneys shall consist of three practising attorneys of the said court, to be named by the judges thereof in the month of December in each year, to act during the ensuing year.

18. *Candidates not previously admitted.*—[*Repealed, and new rule substituted by Reg. Gen., 11th April* 1874, post.]

19. *Attorneys not previously admitted.*—Every person applying to be admitted to practise as an attorney, solicitor, and proctor in the said court, not previously admitted as an attorney or solicitor

in England or Ireland, or writer to the signet in Scotland, must be a natural-born or naturalized British subject, of the full age of twenty-one years, of good fame and character, and— Reg. Gen. 3 Dec. 1872.

(1.) Shall have served[a] the full term of five years under articles in some part of the British dominions, or shall have served the full term of five years as associate to any one of the judges of the said court: Provided that if any applicant shall, after examination, have taken the degree of bachelor of laws or bachelor of arts in the University of Melbourne, or in any university recognised by the University of Melbourne, and shall, within three years after taking such degree, have become an articled clerk, three years' service under articles as aforesaid shall be sufficient.

(2.) Shall have passed the examination hereinbefore mentioned, or shall, after examination, have taken the degree of bachelor of laws or bachelor of arts in the University of Melbourne, or in some university recognised by the University of Melbourne.

(3.) Shall have been examined in the manner hereinafter provided.

20. *Residence and certificate required.*—Every such person shall reside for one year at the least in Victoria before he shall be entitled to be examined as a candidate for admission to practise in the said Supreme Court; and one year before he gives notice of his desire to be examined he shall cause to be delivered to the Board of Examiners for Attorneys a certificate in the form or to the effect of that in the schedule to these rules annexed marked "D"; and one month before he proposes to be examined he shall cause to be delivered to the said board a certificate in the form or to the effect of that in the said schedule marked "E."

21. *Subjects of examination.*—Every such person must, after the expiration of his articles of clerkship, and before he apply for admission to practise in the Supreme Court, also submit to be examined by the said Board of Examiners of the Supreme Court for Attorneys, and must pass in six at least of the following branches of the law:—

(1.) Real property and conveyancing.
(2.) Common and statute law.
(3.) Equity, divorce and matrimonial, and ecclesiastical law.
(4.) Insolvency and admiralty.
(5.) Criminal law.
(6.) Practice of the Supreme Court in its various branches.
(7.) Practice of the courts of inferior jurisdiction.
(8.) Constitutional law and constitutional history.

22. *Attorneys previously admitted.*—Every person applying to be admitted to practise as an attorney, solicitor, and proctor in the

(a) During the period of service under articles, if the attorney die, the articles expire *de facto*, and the clerk may enter into fresh articles for the residue of the term, without application to the court. But if an interval elapse the court will not allow the new articles to relate back to the time of the death, though the clerk has continued to serve, in fact, with the partner of the deceased attorney.—*In re Jones*, 1 V.L.R. (L.), 57; and see *In re Riggall*, N.C., 18; *In re Smith*, 3 A.J.R., 29.

Reg. Gen. 3 Dec. 1872.

said court, previously admitted as an attorney or solicitor in any of the Queen's superior courts of record in England or Ireland, or writer to the signet in Scotland, shall, before the term next preceding that in which he proposes to be admitted, in person give to the board of examiners, in such form as the board shall require, written notice of his intention to apply to be so admitted, and shall, before the first day of the term in which he shall so apply, file with the Prothonotary the affidavit on which he seeks admission, together with a copy of his original or annual certificate, which affidavit shall be in the form or to the effect of that in the schedule to these rules annexed marked "F."

23. *Board to meet every term.*—The board shall meet once in every term for the purpose of considering the application of every person desirous of being admitted to practise as an attorney, solicitor, and proctor in the said court; and if it shall appear to the board that such person is a fit and proper person to be admitted, and has complied with the regulations in that behalf hereinbefore contained, they shall send a report in the form "G" to the judges of the Supreme Court, who shall determine as to the admission or rejection of such candidate.

24. *Appeal to court.*—And in case any person shall be dissatisfied with the decision of such board, he shall be at liberty to appeal against such decision to the said court, and such appeal shall be heard by the said court at such time as it shall appoint; and the said judges may upon the hearing thereof dismiss or allow such appeal, or make such other order as to the said court may seem fit. If approved of, or if such appeal be granted, he shall file with the Prothonotary a copy of the certificate, duly authenticated by the Board of Examiners of the Supreme Court for Attorneys, or a copy of such order, and give notice by advertisement and otherwise, and in other respects comply with these rules as required.

25. *Affidavit of person not previously admitted.*—Every person not previously admitted shall, within a reasonable time before applying for admission to practise in the said court, make and file with the Prothonotary an affidavit in the form of the schedule "H" to these rules annexed.

26. *Admission to practise as an attorney, &c.*—No person shall be admitted to practise as an attorney, solicitor, and proctor in the said court except upon reading the proper certificate, or the order of the court, and no motion shall be made for any such admission on any other but the last day of term, or on any special adjournment thereof.

27. *Fees.*—The following fees shall be paid by persons desirous of being admitted to practise in the said court as attorneys, solicitors, and proctors:—

	Guineas.
For every person lodging with the board the certificate mentioned in rule 18	2
For every examination and re-examination ...	5
For every person previous to admission ...	40

28. *Rules not to apply to clerks previously articled.*—Nothing hereinbefore contained, except so much of rule 19 as applies to the service under articles of any person having taken a degree, shall

affect any person who has already entered into articles of clerkship in Victoria,[a] but every such person may be admitted as if these rules had not been promulgated; and the Board of Examiners for Attorneys established by these rules, and the secretary, shall have the like powers and perform the like duties in regard to any such person as would have been had and performed by the board and secretary under the said rules if the same had not been repealed: Provided that it shall not be necessary for any person who shall, after examination, have taken the degree of bachelor of arts or bachelor of laws in the University of Melbourne, or in any university recognised by the University of Melbourne, to pass the examinations prescribed by the 36th section of the rules of court bearing date the twenty-third day of December One thousand eight hundred and sixty-five.

Reg. Gen. — 3 Dec. 1872.

PART III.

29. *Payment of fees.*—All fees received by virtue of the foregoing rules shall be paid to the secretary of the said boards; and in any case in which any applicant be not admitted to practise in the said Supreme Court, the fee required to be paid by him, on his admission to practise, shall be returned to him at his request, on his giving up any certificates he may have received under these rules.

30. *Fees received to be lodged in bank to the credit of the Chief Justice.*—All such fees received by the said secretary shall be by him lodged in the bank to the credit of the Chief Justice of the said court on account of the "Supreme Court Library Fund," and entries of such receipts, lodgments, and of all disbursements, shall be duly made in a book to be called the "Supreme Court Library Fee Book" to be kept by such secretary.

31. *Application of fees.*—All such fees shall be applied to the purchase and maintenance of a library for the use of the Supreme Court, and for payment as follows:—

	Guineas.
To the Board of Examiners for Attorneys for every term	3
And for the payment of the secretary as the Library Committee may direct.	

32. *Account of fees to be published in court on the first day of term.*—The secretary, or, in his absence, such other person as the Chief Justice may direct, shall, on the first day of each term, present an account of all fees received by such secretary since the first day of the preceding term, and the mode of disbursement of the same, or any part thereof, and the amount remaining undisposed of (if any).

33. *Library Committee.*—The Library Committee shall consist of the judges of the said court, the Board of Examiners for Barristers and the Board of Examiners for Attorneys, who shall have power

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(a) This rule of exemption applies, (adhering to the literal meaning of the words, though they were never intended to apply to such a case), to the case of an applicant who has entered into articles before the date of the rules which expired by the death of his master, and instead of obtaining a transfer had entered into fresh articles.—*Ex parte Smith*, 3 A.J.R., 53.

Reg. Gen. 3 Dec. 1872.

to make rules and regulations for the management and good government of the library; and all branches of the profession shall have free access to such library, subject nevertheless to the rules to be made in that behalf.

34. *Secretary to the board.*—Such person as the judges may from time to time appoint shall be and act as secretary to the said respective boards, and shall perform such duties as these rules and the said boards respectively may require.

35. *Boards, &c., to continue in office.*—Notwithstanding anything hereinbefore contained, the Board of Examiners for Barristers, the Board of Examiners for Attorneys, and the secretary to the said boards in existence at the coming into force of these rules, shall respectively be and act as the boards and secretary under these rules, until the first day of January, in the year of our Lord One thousand eight hundred and seventy-three.

36. These rules, with the exception of rules 14 and 27, shall come into force on the fifth day of December A.D. 1872, and until the said rules 14 and 27 come into force by operation of law, the rules of court bearing date the 23rd of December 1865 shall, notwithstanding anything hereinbefore contained, continue in force so far as regards the fees required by the said rules to be paid.

Dated this third day of December A.D. 1872.

WILLIAM F. STAWELL.
REDMOND BARRY.
EDWARD EYRE WILLIAMS.
ROBT. MOLESWORTH.

SCHEDULE A.—(*Vide* Rule 5.)

NOTICE.

I, of [*add residence and occupation, if any*] son of [*add father, residence, and profession, if any*] do hereby declare that I am desirous to become a student-at-law for the purpose of being admitted to practise as a barrister in the Supreme Court of the Colony of Victoria.

I promise that I will obey the rules of the Supreme Court as far as they may apply to me as a student-at-law; and I declare that I believe that I have attained the age of years.

Dated the day of A.D.

(Signed)

1. Name of candidate—
2. Residence—
3. Occupation—
4. Name of father—
5. Residence of father—
6. Profession or calling of father—
7. Date and place of birth—
8. Age last birthday—
9. Date of matriculation—

Reg. Gen.
3 Dec. 1872.

SCHEDULE B.—(*Vide* Rule 5.)

CERTIFICATE.

To the Board of Examiners of the Supreme Court for Barristers.

We, the undersigned, do hereby certify that we—

(1.) Are acquainted with the above-named who now resides at

(2.) We believe that he is a natural-born [*or* naturalized] British subject.

(4.) And we believe him to be a proper person to be admitted as a student-at-law in the said court.

Dated this day of A.D.

(Signed) E.F.,
" J.K.,
Practising barristers of five years' standing.

SCHEDULE C.—(*Vide* Rule 7.)

DECLARATION.

I, , do sincerely promise that I will obey the rules of the Supreme Court of the Colony of Victoria, as far as they may apply to me.

Dated this day of A.D.

(Signed)

SCHEDULE D.—(*Vide* Rule 20.)

CERTIFICATE.

To the Board of Examiners of the Supreme Court for Attorneys.

1. We certify that we are acquainted with who now resides at
2. We believe that he is a natural-born [*or* naturalized] British subject of the age of years.
3. We have ascertained and believe that he has [*state qualification relied upon*].
4. That he is not engaged in any trade or business.
5. That he is of good fame and character. And
6. That we believe him to be a fit and proper person to be a candidate for admission as an attorney, solicitor, and proctor of the Supreme Court of Victoria.

Dated this day of A.D.

A.B., of
C.D., of
E.F., of

1. Name of candidate to be signed by him at full length at the bottom of this paper
2. Age last birthday—
3. Date and place of birth—
4. Profession or calling of and residence of father—
5. Last place of education—
6. Passed examination at on day of

Dated this day of A.D.

SCHEDULE E.—(*Vide* Rule 20.)

CERTIFICATE.

To the Board of Examiners of the Supreme Court for Attorneys.

We certify that we have known for years, during which time, as we have ascertained and believe, he has not been engaged in any trade or business; and we believe that he is a fit and proper person to be admitted to practise as an attorney, solicitor, and proctor of the Supreme Court of the Colony of Victoria.

Dated this day of A.D.

(Signed) E.F.,
G.H.,
Practising attorneys of the said court.

Reg. Gen. 3 Dec. 1872.

SCHEDULE F.—(*Vide* Rule 22.)

AFFIDAVIT OF ATTORNEY APPLYING FOR ADMISSION.

In the Supreme Court of the Colony of Victoria.

In the matter of A.B., gentleman.

I, A.B., of , in the colony of Victoria, gentleman, make oath and say—

1. That I was, on the day of A.D. 18 admitted [*an attorney of Her Majesty's Court of Queen's Bench at Westminster, and on the day of* A.D. 18 , *admitted a solicitor of Her Majesty's High Court of Chancery in England*] [*or as the case may be*].
2. That I have not done or committed any act or thing which would cause my name to be struck off the roll of the said court [*or as the case may be*].
3. That to the best of my knowledge and belief my name still remains on the rolls of each of the said courts.
4. That the copies of the certificates annexed are true copies of my admission therein respectively.
5. That I am the person named therein.
6. That I ceased to practise as an attorney and solicitor in *England* in the month of A.D. 18 .
7. That I arrived on the day of A.D. 18 in the colony of Victoria.
8. By the ship , which sailed from the port of in
9. That after I ceased to practise in *England*, and before my departure therefrom, I was employed as and since my arrival in the colony of Victoria I have been employed as
10. And I refer to C.D. of , and E.F. of , resident within the said colony, as persons to whom I am known.
11. That I have caused to be posted and published the notices required by the rules of this honorable court, and otherwise in all respects complied therewith.

Sworn at this day of A.D. 18 , before me—

Commissioner for taking affidavits.

SCHEDULE G.—(*Vide* Rule 23.)

REPORT.

To their Honors the Judges of the Supreme Court of Victoria.

We, the major part of the Examiners of the Supreme Court for Attorneys, hereby report that we have examined A.B. of , and we find—

1. That he has complied with all the conditions prescribed, and passed all the examinations required by the rules of the honorable court; and
2. That we believe him to be a fit and proper person to practise as an attorney, solicitor, and proctor in this court [*or as the case may be*].

SCHEDULE H.—(*Vide* Rule 25.)

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ADMISSION AS ATTORNEY BY A PERSON NOT PREVIOUSLY ADMITTED ELSEWHERE.

In the Supreme Court of the Colony of Victoria.

In the matter of A.B., gentleman.

I, A.B., of in the colony of Victoria, make oath and say—

1. That the documents hereunto annexed are true copies of the certificates duly authenticated by the Board of Examiners of the Supreme Court for Attorneys, the originals whereof were, on the day of A.D. 18 , filed by me in the office of the Prothonotary of this honorable court.
2. That I am the person named therein.
3. That I have caused to be posted and published the notices required by the rules of this honorable court, and otherwise in all respects complied therewith.

Sworn at this day of A.D. 18 before me—

A commissioner for taking affidavits.

In the Supreme Court of the Colony of Victoria.

REGULÆ GENERALES.

The twenty-third day of June in the year of our Lord One thousand eight hundred and seventy-three.

Reg. Gen. — 23 June 1873.

In pursuance of the provisions of an Act of the Legislature of Victoria, the 15th Victoria No. 10, section 32, and of another Act of the same Legislature, No. 427, section 17, we, the judges of the Supreme Court, hereby order as follows:—

1. That the 8th chapter of the general rules of this court dated the 29th day of November 1853, and the schedule thereto, and also the rules of this court, dated the 30th day of May 1868, save as to the 5th section thereof, be repealed as to all proceedings to be hereafter commenced, but that all proceedings heretofore commenced by newspaper advertisement, and all rights, duties, and liabilities of all persons under such proceedings, shall remain unchanged.

2. That every application to the court for probate of will or for letters of administration, shall be made by motion on Thursday, or any other day appointed for hearing the same.

3. That no probate of any will or administration of the estate of any deceased person shall be granted to any person, except after the expiration of fourteen days from the publication of an advertisement[a] by him, or some proctor on his behalf, in one of the Melbourne newspapers of his intention to apply for the same.

4. That every application for probate of a will, or for administration with the will annexed, shall be supported by an affidavit or affidavits setting forth—

The death of the testator;
The time of his decease;
That he has left a will;
The date thereof;
The name and residence of each executor and of each of the subscribing witnesses thereto;
An identification or statement of the contents thereof;
A statement of the value of the property, distinguishing real and personal;
A search in the Registrar-General's office for any other will deposited;
The publication of advertisements;
That no caveat has been lodged up to the morning of the application;[b]

and if such will be executed by the testator by his affixing his mark thereto, then an affidavit of the due execution thereof and of the cause of it being by mark shall also, if possible, be made by one or

(a) Where the application for probate is not made by all the executors, the advertisement should state that leave would be reserved for the others to come in and prove. —*In re Taylor*, N.C., 32.

(b) As to the practice regarding caveats under the previous rules, see *In re Carroll*, 1 W. W. & a'B. (I. E. & M.), 66; *In re Jones*, *ibid.*, 67; *In re O'Keefe*, 6 W. W. & a'B. (I. E. & M.), 38; *In re Graham*, 2 V. R. (I. E. & M.), 57.

Reg. Gen. 23 June 1873.

more of the subscribing witnesses thereto; and every such affidavit shall be filed before the motion for probate of the will or administration shall be granted.

5. That every application for letters of administration to any deceased person by a person applying not as a creditor shall be supported by an affidavit or affidavits setting forth—

The death of the deceased;
The time of his decease;
That he died intestate, leaving property in Victoria, specifying its value, distinguishing real and personal;
What relatives or next of kin he left surviving him, so far as the same may be known and material by law to the right to administer or share in his property;
The character in which the person making the application claims to be entitled, and the truth thereof;
That the applicant has carefully inquired if there be a will;
A search made in the Registrar-General's office for a will deposited;
The publication of advertisements;
That no caveat[a] has been lodged up to the morning of the application.

6. That in all cases where a creditor or one of joint creditors shall intend to apply for letters of administration he shall, previous to such application, go before the Master in Equity and prove his debt; and the said master is hereby directed to inquire into and admit or reject proof of such debt, and certify to a judge whether the same be due; and if the master shall certify that such debt is due, a judge may order that a summons do issue, calling on the widow and next of kin of the deceased person to appear before the court fourteen days after the first publication thereof, to show cause why administration of the estate of the deceased should not be granted to such creditor, and such summons shall be made returnable not less than fourteen days from the first publication thereof, and shall be published once in each of two consecutive weeks in two newspapers to be named in the order directing the issue of such summons;[b] and no administration shall be granted to such creditor unless upon an affidavit or affidavits setting forth—

The death of the person;
The time of his decease;
That he left property in Victoria, specifying its value, distinguishing real and personal;
Whether he died intestate or left any and what will;
That the applicant has carefully inquired if there be a will;
A search made in the Registrar-General's office for a will deposited;

(a) See note (b) preceding page.

(b) On a motion for administration to a creditor, the next of kin, who had been served with a summons to show cause under the previous rule (cap. viii., r. 6, similar to this), appeared and claimed to administer, but he had not advertised his intention to apply for administration—*Held*, that the creditor was entitled to the administration, but that if the next of kin had any substantial cause the court might revoke the present letters and grant others to the next of kin on payment of the creditor's costs.—*In re Twist*, 1 W. & W. (I. E. & M.), 17.

Reg. Gen. — 23 June 1873.

What relatives or next of kin the deceased left surviving him, so far as the same may be known and material in law to the right to administer or share in his estate;(a)
That the applicant is a creditor, and to what amount;
That he has proved his debt;
The publication of advertisements;
That no caveat(b) has been lodged up to the morning of the application.

7. That in all cases of probate and administration there shall be filed, with the above, affidavits on oath of the proposed executors and administrators in the form in the schedule to these rules annexed set forth, promising the due performance of their duties.

8. That the bond of an administrator and his sureties shall be in the form in the schedule hereto.

9. That generally before any letters of administration shall issue to a person procuring the security of individuals, he shall attend with each of his sureties before the Master in Equity, and they shall each respectively justify as to the amount of value of his property.(c)

10. That sureties to administration bonds may also justify by affidavits made in Victoria out of Melbourne, before, and such bonds may be executed by all or any of the parties thereto in the presence of and attested by any commissioner of the court for taking affidavits in Victoria, not being the proctor or clerk of the proctor of the person applying for such administration: Provided always that every such affidavit shall specify the particulars of the property of the person making the same, and the value of such particulars over and above his just debts and liabilities respectively; and such affidavits shall be filed in the office of and be laid before the Master in Equity, who, if not fully satisfied therewith, may require further information or assurance as to the sufficiency of the security, either by further affidavit made as hereinbefore provided, or by the personal attendance and examination upon oath of the proposed surety.

11. That where the bond of an incorporated company or guarantee society, approved of by the Governor in Council under the Act 427, section 27, is received as security instead of the security of individuals, such bond and condition shall be in the same form, substituting the name of such company or society for those of the individuals, and the master, before the issue of the letters of administration, shall satisfy himself of the due execution of such bond.

(a) Affidavits on which an order *nisi* for administration had been obtained, stating that the deceased had died leaving "property in Victoria consisting of real estate," and that he "left surviving him three children, infants, two girls and a boy," were held insufficient.—*Semble*, that the affidavits should have stated that no personal estate was left, and that no widow or other next of kin survived him.—*In re Austin*, 1 V.L.R. (P.), 38.

(b) See *ante*, note (b), r. iv.

(c) Under the previous rules (cap. xiii. r. 7) the court would not, on the ground that the absent next of kin applying for letters of administration was in indigent circumstances, dispense with one of the "two or more sureties" required of the person to whom administration is granted under the statute of Chas. II.—*In re Kinderlin*, 1 W. & W. (I. E. & M.), 11.

The bond and sureties were not dispensed with in the case of an administrator of an executor, though the amount of the testator's estate was included in the administration bond for the executor's estate.—*In re Bon*, 3 A.J.R., 62.

Reg. Gen. 23 June 1873.

12. That no administrator shall be allowed the price he may pay for procuring the security either of individuals or of such company or society as an expense of administration.

13. That if the person obtaining an order for probate or administration shall not take out such probate or procure such administration to be issued within three months of the making of such order, any other person having claim thereto may proceed to obtain administration *cum testamento annexo* or other administration, as the case may be, notwithstanding such order; and if such last-mentioned person, after the expiration of the said three months, lodge a caveat against the issuing of such probate or administration respectively with the Master in Equity, such master shall not issue the same to the person who has obtained such order without the special direction of the court.[a]

14. That where an order is made fixing a time for showing cause against an order *nisi*, under the 30th section of the Act 427, both parties may subpœna their witnesses for that time or any adjourned time for the hearing in the same manner as in a suit in equity, and such subpœna shall be issued by the Master in Equity.

15. That either party shall, four clear days before the day appointed for hearing, file in the office of the Master in Equity any affidavits he may propose to use at the said hearing, under Act 427, section 32, and serve notice of the filing thereof upon the opposite party; and the opposite party, desiring to cross-examine a deponent, shall, two clear days before the said day appointed for hearing, serve a notice requiring the production of such deponent for cross-examination; but the court may, at its discretion, specially order variations from this rule.

16. That all executors and administrators do and shall make or cause to be made a true and perfect inventory of all and singular the property, lands, and hereditaments, goods, chattels, and credits of the deceased which shall have come to the hands, possession, or knowledge of them respectively, or into the hands or possession of any other person or persons for them respectively, and the same so made sign with their proper handwriting (or mark, if illiterate), and do and shall exhibit and deposit, or cause to be exhibited and deposited, the same inventory in the office of the Master in Equity within three calendar months next ensuing the order granting probate or letters of administration respectively;[b] and further do and shall respectively make or cause to be made a true and just account of the administration of the estate which they have undertaken as to their receipts and disbursements, and as to what portion is retained by them and what portion remains uncollected, and the same so made do and shall sign with their proper handwriting (or mark, if illiterate), and do and shall respectively exhibit and deposit, or cause to be exhibited and deposited, the same account in the said office of the Master in Equity within fifteen calendar months next ensuing the order granting probate or letters of administration respectively: Provided that this court may, under special circumstances, by order

(*a*) As to a case of delay in procuring sureties under the old rule, see *In re Malloy*, 1 A.J.R., 8.

(*b*) Inventories should not be filed on affidavits: the rules were designed expressly to avoid the expense of affidavits. —*In re Dowling*, 1 A.J.R., 14.

dispense with the performance of this rule, or excuse the omission to have performed it so far as relates to allowing administration bonds to be put in suit under the Act 427, section 28.

Reg. Gen. — 23 June 1873.

17. That these rules shall be read in connection with the unrepealed rules of this court, dated the 29th day of November 1853,[a] and as if incorporated therewith.

18. That application for probate and administration under peculiar circumstances, not expressly referred to herein, shall be made upon such grounds and materials as to real and personal property as have been heretofore acted upon by this court in its ecclesiastical jurisdiction, or as near thereto as circumstances permit, and the forms of affidavits, orders, and documents heretofore in use shall be followed in all matters not expressly hereby provided, and not inconsistent herewith or with the Act 427.

19. That this court may depart from the strict language of these rules in all cases in which special circumstances or justice may require.

SCHEDULE TO THE FOREGOING RULES.

Affidavit of Executor or Administrator promising the due Performance of Duties.

In the Supreme Court of the Colony of Victoria. } In the probate jurisdiction.

In the estate of , late of deceased.

I, , of make oath and say:—

That I am seeking to obtain probate of the will [*or* administration of the estate] of late of , deceased.

That if I obtain probate [*or* administration] I will well and truly collect and administer according to law, to the best of my knowledge and ability, the property, lands, and hereditaments, goods, chattels, and credits of the said deceased at the time of his death, which at any time after shall come to the power or control, hands, or possession of me as his executor [*or* administrator], or of any other person or persons for me; that I will make or cause to be made a true and perfect inventory of all and singular the property, lands, and hereditaments, goods, chattels, and credits of the said deceased which shall have come to the hands, possession, or knowledge of me, or to the hands or possession of any other person or persons for me, and the same so made will sign with my proper handwriting [*or* mark], and will exhibit and deposit, or cause to be exhibited and deposited, the same inventory in the office of the Master in Equity within three calendar months next ensuing the order granting probate [*or* administration]; and further, that I will make or cause to be made a true and just account of the administration of the estate which I have undertaken as to my receipts and disbursements, and as to what portion is retained by me, and what portion remains uncollected, and the same so made will sign with my proper handwriting [*or* mark], and will exhibit and deposit, or cause to be exhibited and deposited, the same account in the said office of the Master in Equity within fifteen calendar months next ensuing the order granting probate [*or* administration].

(a) *Ante*, p. 2717.

Reg. Gen. — 23 June 1873.

FORM OF ADMINISTRATION BOND.

Know all men by these presents that we—

, of

, of

, of

are jointly and severally held and firmly bound to the Honorable Sir William Foster Stawell, Knight, Chief Justice of the Supreme Court of the Colony of Victoria, his successors and assigns, in the sum of of lawful money of Great Britain, to be paid to the said Sir William Foster Stawell, Chief Justice, his successors and assigns, for the due payment whereof we hereby bind ourselves and each and any two of us, our heirs, executors, and administrators firmly by these presents.

Sealed with our seals, dated this day of in the year of our Lord One thousand eight hundred and

The condition of this obligation is such that if the said , the administrator of all and singular the property of , late of , deceased, do and shall well and truly collect and administer according to law the property, lands, and hereditaments, goods, chattels, and credits of the said deceased at the time of his death which shall come to the power or control, hands, or possession of him as his administrator, or of any other person or persons for him, and do and shall make or cause to be made a true and perfect inventory of all and singular the property, lands, and hereditaments, goods, chattels, and credits of the said deceased which shall have come to the hands, possession, or knowledge of him, or the hands or possession of any other person or persons for him, and the same so made do and shall sign with his proper handwriting [*or* mark], and do and shall exhibit and deposit, or cause to be exhibited and deposited, the same inventory in the office of the Master in Equity within three calendar months next ensuing the order granting letters of administration; and further, do and shall make or cause to be made a true and just account of the administration of the estate which he shall have undertaken as to his receipts and disbursements, and as to what portion shall be retained by him and what portion shall remain uncollected, and the same so made do and shall sign with his proper handwriting [*or* mark], and do and shall exhibit and deposit, or cause to be exhibited and deposited, the same account in the said office of the Master in Equity within fifteen calendar months next ensuing the order granting letters of administration; then this obligation to be void and of none effect, or else to remain in full force and virtue.

REDMOND BARRY, A.C.J.
EDWARD EYRE WILLIAMS.
ROBT. MOLESWORTH.
THO. HOWARD FELLOWS.

In the Supreme Court of the Colony of Victoria.

REGULA GENERALIS.

Reg. Gen. — 11 April 1874.

WHEREAS it is expedient to repeal the rule of the said court passed on the third day of December 1872, being No. 18 of chapter II., and to substitute another rule instead thereof.

It is therefore ordered as follows:—

18. *Candidates not previously admitted.*—Every person, except as hereinafter provided, must, before he enter into articles in the colony of Victoria, produce to the Board of Examiners for Attorneys a certificate of his having passed at a matriculation examination in the University of Melbourne in six, at least, of the subjects fixed

for the time being by statutes and regulations of the said university for the matriculation examination, of which subjects Latin must be one, and must lodge, with the said board, a copy of such certificate.(a) And must also, after he has entered into his articles of clerkship, pass two other examinations with an interval of at least one academic year between each. The first of such examinations to be in "history of the British Empire" and "the laws of obligations," as prescribed respectively for the second and third examinations for the degree of bachelor of laws of the said university. The second of such examinations to be in "constitutional law" and "the law of property," as prescribed for the third examination for such degree. Provided that if any such person shall produce to the said Board of Examiners of the Supreme Court for Attorneys a certificate of his having passed at a matriculation examination in any university recognised by the University of Melbourne, or of his having passed the preliminary or any intermediate examination which clerks articled in England, Scotland, or Ireland may be required to pass, and lodge with the board a copy thereof, it shall not be necessary for him to submit to such examination as aforesaid. Provided also that every articled clerk who may have passed any examination under the rule hereby repealed shall have credit for the same, and if it shall be necessary for him to pass any other examination in the university he shall pass the same in subjects named as those for the second examination under this rule.

Reg. Gen. — 11 April 1874.

Signed this eleventh day of April in the year of our Lord One thousand eight hundred and seventy-four.

REDMOND BARRY, A.C.J.
EDWARD EYRE WILLIAMS.
ROBERT MOLESWORTH.
THOMAS HOWARD FELLOWS.

In the Supreme Court of the Colony of Victoria.

REGULA GENERALIS.

Tuesday the seventh day of December in the year our Lord One thousand eight hundred and seventy-five.

Reg. Gen. — 7 Dec. 1875.

IT is hereby ordered that henceforth the rule of this court passed on the 17th day of July 1874, being rule No. 18, c. II.,(b) shall, so

(a) Leave to file this certificate, *nunc pro tunc*, will not be granted, except under very special circumstances.—*In re Morgan*, 5 A.J.R., 69; contra, *ex parte Lynn*, 4 A.J.R., 20.

As to a case of dispensing with the preliminary examination, see *Ex parte Barrett*, N.C., 16; s.c., 2 A.J.R., 113. Not followed, *In re Morris*, 1 V.L.R. (L.), 262.

A graduate of a university recognised by the University of Melbourne is not expected to pass the matriculation examination here. If the applicant thinks his degree sufficient, he should enter into his articles.—*Ex parte Maunsell*, 3 A.J.R., 41.

(b) The rule referred to is evidently the rule dated 11 April 1874, and published in the *Gazette* on 17 July 1874, and is rule No. 18, c. II., next preceding.

Reg. Gen. — 7 Dec. 1875.

far as it relates to the passing of the examinations therein specified, apply to all persons who have entered into articles of clerkship subsequently to the 23rd day of December 1865; and credit shall be given to every such person for any examination passed by him under any former rule of this court as if such examination had been passed under the rule repealed by the said rule of the 17th day of July 1874.

REDMOND BARRY, A.C.J.
ROB. MOLESWORTH.
THO. HOWARD FELLOWS.
J. W. STEPHEN.

In the Supreme Court of the Colony of Victoria.

REGULÆ GENERALES.

Tuesday the fifteenth day of August in the year of our Lord One thousand eight hundred and seventy-six.

Reg. Gen. — 15 August 1876.

IT is ordered that the practice to be observed in this court with respect to the matters hereinafter mentioned shall be as follows (that is to say):—

1. *Crown cases reserved, T. & M., app.* vi.—Where any case shall be transmitted by any court of criminal jurisdiction for the consideration of the judges of this court, the original case (signed by the judge or other person presiding in such first-mentioned court) reserving the question of law shall be delivered or sent by the general post to the Prothonotary.

2. *Case to state question reserved.*—Every such case shall briefly state the question or questions of law reserved, and such facts only as raise the question or questions submitted. If the question turns upon the presentment, or upon any count thereof, then the case must set forth the presentment or the particular count.

3. *And whether judgment was passed.*—Every such case shall state whether judgment on the conviction was passed or postponed, or the execution of the judgment respited, and whether the person convicted be in prison or has been discharged on recognizance of bail to appear and receive judgment, or to render himself in execution.

4. *Copies of Crown cases.*—The Prothonotary, as soon as possible after the receipt of such case, shall cause to be made three copies thereof, and shall cause such copies respectively to be forthwith left at the chambers of the three judges who will sit for the consideration of such case.

5. *Appeal books in equity to be delivered by both parties, Act No.* 274, *s.* 74.—Three days before the day appointed for the sitting of this court to hear appeals from the decree, decretal, or other order of any one judge in any suit or matter depending in this court in its equitable, insolvency, or probate jurisdiction, the appellant shall deliver copies of the appeal case to the Chief Justice and senior

puisne judge, and the respondent shall deliver copies to the other judges (excepting the judge who made such decree or order), and in default thereof by either party the other party may on the day following deliver such copies as ought to have been so delivered by the party making default, and the party making default shall not be heard until he shall have paid for such copies, or deposited with the master a sufficient sum to pay for such copies.

Reg. Gen. — 15 August 1876.

6. *Appeal from justices and general sessions*, 2 H. & N., 264.—In cases of appeal to this court under "*The Justices of the Peace Statute* 1865," and also where any court of general sessions of the peace shall state a case in respect of any appeal or any question of law arising thereon for the opinion of this court, the practice prescribed by the seventy-third and seventy-fourth sections of the "*Common Law Procedure Statute* 1865," so far as the same is applicable, shall be observed.

7. *All cases to be numbered in paragraphs*, 11 *C.B.* (*N.S.*), 477.—Every case transmitted by any court of criminal jurisdiction for the consideration of this court, and every special case, special verdict, and appeal case, whether from a single judge or from any county court or justices, and every case stated by any court of general sessions of the peace in respect of any appeal or any question of law arising thereon respectively set down in this court, shall be divided into paragraphs, each of which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively; and the master and Prothonotary respectively on taxation shall not allow the costs of drawing and copying any special case, special verdict, or appeal case, or case stated by any court of general sessions as aforesaid, not in substance in compliance with this rule, without the special order of the court.

8. *All copies to be made on brief paper*—Every copy of a case transmitted by any court of criminal jurisdiction for the consideration of this court, and every copy of a demurrer book, special case, special verdict, and appeal case, whether from a single judge or from any county court or justices, and of any case stated by any court of general sessions as aforesaid, delivered to the judges, shall be fairly written on brief paper in the manner that briefs are now usually written, with a margin on the left-hand side of one-fourth of the width of such paper, and no costs shall be allowed for any copy not in substance in compliance with this rule, without the special order of the court.

9. *Actions on bills of exchange*, 17 *Com. B.*, 2.; 8 *E. & B.*, 949.—No other claim than a claim on a bill of exchange or promissory note is to be included in writs issued under the first part of "*The Instruments and Securities Statute* 1864," but where a defendant obtains leave to appear, according to the said part of the said Act, and enters an appearance to any such writ, the plaintiff may include in his declaration causes of action of whatever kind in like manner, and subject to the same restrictions as in case of a declaration in an action commenced by writ of summons in the form contained in the fifth schedule to the "*Common Law Procedure Statute* 1865."

10. *Entry of satisfaction on a judgment*, 2 *C.B.* (*N.S.*), 92.—Upon a satisfaction piece duly signed and attested, in accordance with the three hundred and sixth section of the "*Common Law Pro-*

Reg. Gen. 15 August 1876.

cedure Statute 1865," being presented to the Prothonotary he shall file the same and enter satisfaction in the action book against the entry of the said judgment, and no roll shall be required to be carried in for the purpose of entering satisfaction on a judgment.

11. *Memorandum of satisfaction on a bill of sale, No.* 274, *s.* 306. —For the purpose of obtaining a judge's order for the entry of a memorandum of satisfaction on a bill of sale or copy thereof, it shall be requisite only to produce to the judge a satisfaction piece in the form hereinafter prescribed, and such satisfaction piece shall be signed by the party or parties acknowledging the same, or their personal representatives, and such signature or signatures shall be witnessed by a practising attorney of this court expressly named by him or them and attending at his or their request to inform him or them of the nature and effect of such satisfaction piece before the same is signed, and which attorney shall declare himself in the attestation thereto to be the attorney for the person or persons so signing the same and state he is witness as such attorney, and in cases where the satisfaction piece is signed by the personal representative of the deceased, his representative character shall be proved in such manner as the judge may direct.

12. *Form of satisfaction piece and order.*—Every such satisfaction piece and judge's order respectively shall be on the same piece of paper and in the forms following (that is to say):—

Satisfaction is hereby acknowledged by me [O.P., executor of the last will and testament of] A.B., of a bill of sale dated the day of One thousand eight hundred and and made between C.D. of the one part and the said A.B. of the other part, and numbered in the office of the Registrar-General; and I do hereby expressly nominate and appoint E.F., attorney-at-law, to witness and attest my execution of this acknowledgment of satisfaction.

Signed by the said A.B., in the presence of me E.F., of &c., one of the attorneys of the Supreme Court of the colony of Victoria, and I hereby declare myself to be attorney for and on behalf of the said A.B., expressly named by him, and attending at his request to inform him of the nature and effect of this acknowledgment of satisfaction (which I accordingly did before the same was signed by him), and I also declare that I subscribe my name hereto as such attorney.

Signature.

Date.

Signature of attorney.

Upon reading the foregoing satisfaction piece I do order that a memorandum of satisfaction be written upon the bill of sale therein described, or copy thereof.

Dated this day of

Signed.

13. *Consequence of departure from forms.*—If the form of satisfaction piece hereinbefore prescribed shall not be followed, no order will be made that a memorandum of satisfaction be written on the bill of sale or copy thereof without a previous summons to show cause;

and no costs shall be allowed for any memorandum of satisfaction not in substance in compliance with this rule without the special order of a judge.

14. *Abandonment of appeals to the Privy Council.*—When any person or persons feeling aggrieved by any judgment, decree, order, or sentence of this court shall apply to the said court by motion or petition for leave to appeal therefrom to Her Majesty, her heirs and successors, in her or their Privy Council, the party or parties appellant shall prepare and deliver to the master or Prothonotary[a] (as the case may be) a transcript or copy of the evidence, proceedings, judgment, decree, or order, so far as the same have relation to the matters of appeal, in order that the same may be certified and sent or transmitted to England; and if such transcript or copy shall not be so prepared and delivered within three months from the date of such motion or petition, or within such further time as may be allowed by the court or a judge, or by consent, the appeal shall be deemed to have been abandoned.

15. *Discontinuance of such appeals.*—The party or parties appellant may at any time before the transcript, or copy of the evidence, proceedings, judgment, decree, or order shall have been despatched to England, discontinue the appeal by giving to the respondent, or his attorney, solicitor, or proctor, a notice headed in the court and cause, stating that he discontinues such appeal.

16. *Costs of appeal where it is not prosecuted.*—If the security required by law shall not be entered into by the party or parties appellant, within three months from the date of the motion, or petition for leave to appeal, or if the appeal shall be abandoned or discontinued as hereinbefore mentioned, the respondent's costs of and occasioned by the motion or petition for leave to appeal, and all subsequent costs *bonâ fide* incurred by him and rendered useless by the failure to enter into the said security or by the abandonment or discontinuance of the appeal shall be taxed by the master or Prothonotary (as the case may be) in like manner as the costs of an action or suit, and in case of non-payment thereof within two days after such taxation the respondent may apply by summons to a judge in chambers for an order that the party or parties appellant shall pay the amount so taxed to the respondent, and such judge may make an order accordingly with or without costs.

17. *Summons not attended may be dismissed.*—When a judge's summons is taken out and served, and no one appears in support thereof, the party thereby required to appear may have the same dismissed with costs without prejudice to a fresh application, provided he shall have attended the judge before the expiration of half an hour next immediately following the return of the summons, and shall produce to the judge an affidavit of such attendance verifying the copy served, and deposing that no one appeared in support of such summons.

WILLIAM F. STAWELL.
ROB. MOLESWORTH.
THO. HOWARD FELLOWS.
J. W. STEPHEN.

(a) See *ante*, p. 2713, Order in Council, 26 June 1873.

PART IV.

RULES, ORDERS, AND FORMS

FOR

REGULATING THE PRACTICE AND PROCEEDINGS IN COUNTY COURTS,

AND THE

FEES AND COSTS ALLOWABLE TO PRACTITIONERS

AND

EXPENSES TO BE ALLOWED TO WITNESSES IN SUCH COURTS.

MADE IN PURSUANCE OF 33 VICT. NO. 345 s. 122.

RULES AND ORDERS, ETC.

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Rules.
14 Sept. 1869.

WE, Robert Williams Pohlman, John Warrington Rogers, and John George Forbes, Esquires, being three of the County Court judges, have, under the powers vested in us by the "*County Court Statute* 1869," framed the following rules and orders for regulating the practice and proceedings in the county courts, and forms of proceedings therein, the following form of cases upon appeal to the Supreme Court, and have framed the following rules and orders for determining the time within which such appeal shall be prosecuted; and have fixed the following scale of fees and costs to be allowed to practitioners in the said county courts; and have framed the following rules and forms for keeping registers, books, entries, and accounts, by registrars and other officers, in the said courts; and have fixed the following scale of expenses to be allowed to witnesses in the said courts. And we do hereby certify the same under our hands to a law officer of the Crown, namely, the Honorable James Joseph Casey, Solicitor-General, accordingly.

ROBERT WILLIAMS POHLMAN.
J. WARRINGTON ROGERS.
JOHN GEORGE FORBES.

Submitted to me and published as directed by the "*County Court Statute* 1869."

J. J. CASEY,
Solicitor-General.

Crown Law Offices,
Melbourne, September 14 1869.

ORDER I.

TIME WHEN RULES COME INTO OPERATION.

The rules, orders, and forms now in use in county courts, and the fees and costs to practitioners, and the expenses to witnesses, and the rules and forms for keeping registers, books, entries, and accounts by registrars and other officers, in the said courts shall, on and from the first day of October 1869, cease to be followed, used,

Rules. — 14 Sept. 1869.

charged, and taken; and, in lieu thereof, the following shall, on and from such day, be the rules, orders, and forms, and the fees and costs to practitioners, and the expenses to witnesses in force and to be followed, used, charged, and taken in the said courts.

Interpretation.

In these orders the following words shall have the several meanings hereby assigned to them over and above their ordinary meanings, unless there be something in the subject or context repugnant to such construction, viz.:—

The words "the Act" shall mean the "*County Court Statute* 1869."

The word "party" shall mean a party to an action, suit, or proceeding; and "person" shall mean any person, whether a party to the suit or proceeding or not; and the words "person" or "party" shall include a body politic or corporate.

The word "affidavit" shall include statutable affirmations, and the word "sworn" shall include affirmed according to the Statute.

The word "court" shall mean the county court having jurisdiction in the action, suit, or proceeding; and the words "judge" and "registrar" shall respectively mean the judge and registrar, and assistant registrar of that court.

The word "practitioner" shall mean either a barrister or an attorney indifferently.

The word "attorney" shall mean attorney of the Supreme Court.

The word "minister" shall mean the Responsible Minister of the Crown in whose department "the Act" is administered.

ORDER II.

Applicable to all Jurisdictions.

Sitting of Court and general Order of Business.

Rule 1.—Not later than the first fortnight in the month of December in each year, the several judges shall forward to the minister notice of the days fixed by them for holding their several courts throughout the following year.

Rule 2.—All county courts shall be opened at such hour, not earlier than nine o'clock a.m., as the judge shall direct, and close as soon after four o'clock p.m. as the cause then being heard shall be ended, unless the convenience of both parties in some particular cause or causes shall induce the judge then presiding to extend the sitting to a later period of the day.

Rule 3.—A separate list of causes and matters in each jurisdiction, viz., common law, equity, [*and probate,*][a] shall be made out

(a) This jurisdiction is abolished by the "*Administration Act* 1872," 36 Vict. No. 427 s. 2, *ante*, p. 17.

Rules. — 14 Sept. 1869.

by the registrar; and the causes and matters in each list will be called on in the order in which they stand in the list; but defended causes shall be postponed until the undefended causes in the list then before the court have been disposed of; but this rule may be varied where the convenience of suitors may seem to the judge to render a variance of the rule desirable.

Rule 4.—The lists provided in the foregoing rule will be called on in the following order, viz.:—

1. Common Law.
2. Equity.
[3. *Probate.*][a]

Notices.

Rule 5.—Where by these rules any party is required to give notice according to a form mentioned in the Schedule, it shall be sufficient if the notice given complies substantially with such form.

Rule 6.—All letters or process sent by post by or to the officers of the courts, or by or to parties in a cause or by or to practitioners on their behalf, shall be prepaid.

Registrar's Duties.

Rule 7.—The registrar shall attend the sitting of the court, and shall also attend the judge when sitting in chambers, unless his attendance be excused by the judge.

Rule 8.—The registrar shall have the custody of the seal of the court, and, in addition to the register, shall keep a suitors' cash book, suitors' fund and fee book.

Rule 9.—The register shall be kept in three parts. Part I. Common Law; Part II. Equity; [*Part III. Probate.*][a] And all costs shall be entered in the part of the register in which the cause or proceeding is classed.

Rule 10.—The registrar shall in the suitors' cash book enter all moneys, other than fees of court payable to the Crown or to the bailiff, received from or on behalf of suitors, and all moneys paid to or on behalf of suitors; and such book shall be kept in such a manner that at the end of the first week in each month the balance of suitors' moneys in court shall clearly appear.

Rule 11.—The registrar shall in the suitors' fund book enter all moneys, other than fees of court payable to the Crown or to the bailiff, received from or on behalf of the suitors, and all moneys paid to or on behalf of the suitors in each cause.

Rule 12.—The registrar shall enter in the fee book all fees of court (including bailiff's fees), and all fines which he shall receive, and the disposal thereof.

Rule 13.—The registrar shall enter in the register in the part in which the cause, matter, or proceeding is classed, all notices sent by him, and all notices received by him; and notices so sent and received shall be entered by him on the same day on which the same are sent and received.

(a) See note (a) preceding page.

Rules.

14 Sept. 1869.

Bailiff's Duties.

RULE 14.—Every bailiff shall use all despatch in the execution of warrants placed in his hands, and shall keep a book to be called the warrant book, in which he shall enter every warrant which he has been required to execute, and shall from time to time state therein what he shall have done under each warrant; and if the same be not executed within one calendar month from the day of its delivery to him, why it was not executed; and shall at all reasonable times give to a suitor, or to the practitioner engaged on his behalf, every information that he may reasonably require, as to the execution or non-execution of any warrants which have been issued at his instance.

RULE 15.—Every bailiff having or receiving any money by virtue of any process issuing out of the court of which he is bailiff, or by virtue of process which he shall have received for execution out of any other court, shall, when practicable, within twenty-four hours, or, if not practicable within that time, then within three days of the receipt thereof, pay over the same to the registrar of such court, and shall return all process to the registrar to be filed by him.

RULE 16.—Every bailiff in whose hands any summons shall be placed for service shall serve or cause the same to be served with all reasonable despatch, and shall, when practicable, immediately after the service thereof, make or cause to be made the necessary affidavit of service, (a) and forward the summons and affidavit to the party from whom he received the same for filing with the registrar.

Juries.

RULE 17.—Notice that a jury is required to try any action under Part II. of this Act shall be in the form in the Schedule, and must be delivered, together with the fee of Two pounds, to the registrar ten days before the return day of the summons, and the notice must be given to or sent by post to the opposite party three days before such return day; but where the jury is required by the plaintiff, he may insert on the summons "For trial by jury," and in that case no further notice to the defendant will be necessary; and when the defendant requires a jury to try the action, he may insert in the notice of defence or special defence (if any) the words "For trial by a jury," and in that case no further notice to the plaintiff will be necessary; but in every case in which a jury is required by either party, the party requiring a jury must give the notice hereinbefore provided, and pay the fee to the registrar.

RULE 18.—The last preceding rule will not apply when the judge, on the application of the party or otherwise, directs any cause or any issue of fact to be tried by a jury, but he will in such case give such directions as the exigency of each case will require.

Affidavits.

RULE 19.—Every affidavit shall be in the first person, and be divided into paragraphs numbered consecutively, and each paragraph

(a) The affidavit of service need not describe the parties.—*Moore* v. *Prest*, 1 A.J.R., 151.

shall be, as nearly as may be, confined to a distinct portion of the subject.

Rules.
14 Sept. 1869.

Rule 20.—The addition and true place of abode of every person making an affidavit shall be inserted therein; and in every affidavit made by two or more deponents, the names of the several persons making such affidavit shall be written in the jurat, and no affidavit shall be read or made use of in the jurat of which there shall be any interlineation or erasure, or in the body of which any alteration or interlineation shall appear, unless such last mentioned alteration or interlineation shall be initialed by the person before whom the affidavit is sworn.

Rule 21.—Every affidavit intended to be used in court or before a judge, shall be entitled in the cause, matter, or proceeding, and shall before the same is so used be sealed by the registrar with the seal of the court.

Rule 22.—Every affidavit made by an illiterate person shall be read over and explained to him by the person taking the same; and when any affidavit is sworn by any person who from his or her signature appears to be illiterate, the officer taking such affidavit shall state in the jurat that he read over and explained the affidavit to the party making the same, and that such party seemed perfectly to understand the same, and also that the said party wrote his or her mark or signature in the presence of the officer taking such affidavit.

Rule 23.—Every affidavit used in court or before a judge shall be delivered to and filed by the registrar.

Chamber Business.

Rule 24.—Each judge shall notify in the *Gazette* some town within his circuit at which applications for summonses or applications for appointments upon matters disposable in chambers may be made.

Rule 25.—Application for summons returnable before a judge in chambers shall be made to the registrar at such town, who, under the direction of the judge, will fix a day when, and a place where, the summons may be made returnable.

Rule 26.—Every summons returnable at chambers shall set out in plain and distinct terms the nature of the application to be made, and shall be signed and sealed by the registrar of the court in which the action, suit, or proceeding is pending.

Rule 27.—The grounds of the application shall be stated either upon the face of the summons or in an affidavit.

Rule 28.—Copies of affidavits intended to be used upon the hearing of any judge's summons must be served upon the opposite party before being used, and in sufficient time to enable the party served to answer, on affidavit, any statement which he intends to contest.

Rule 29.—No order made upon affidavits shall be sealed, unless the affidavits used by the party obtaining the order be filed.

Rules.

14 Sept. 1869.

Interpleader Business.

RULE 30.—An interpleader summons, under section 92 of the Act, shall be in the form in the Schedule, or to the like effect, and may be made returnable either before the judge sitting in court at an ordinary or adjourned sitting, or before the judge in chambers.

[*See further as to Interpleader Rules in Order III., under head "Interpleader."*]

COSTS, FEES, AND EXPENSES.

Costs and Fees to Practitioners.

RULE 31.—The scales of fees and costs as set out in the Schedule shall be the scales of fees and costs to be allowed to practitioners in the county courts in the various jurisdictions exercised under the Act.(a) To entitle a party to recover against the opposite party the costs of appearing by both barrister and attorney, he must give three clear days' notice to the opposite party of his intention to do so.

Witnesses' Expenses.

RULE 32.—The scale specified in the Schedule shall be the scale of allowances to witnesses.

RULE 33.—If any witness shall, before he is sworn, request the judge to fix the amount to be paid to him as a witness, the judge shall do so, and no witness shall be compelled to give his evidence until the amount so fixed shall have been paid to him.

Forms.

RULE 34.—The several forms set out in the Schedule to those orders, or forms to a like effect, shall be the forms of proceedings in the several courts.

Computation of Time.

RULE 35.—In all cases in which any particular number of days not expressed to be clear days is prescribed by these rules or by the practice of the court, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall fall on a Sunday or holiday, in which case the time shall be reckoned exclusively of that day also.

RULE 36.—In all cases where anything is required by the rules of practice to be done within a period of twenty-four hours, or within a period of forty-eight hours, no part of Sunday, Christmas Day, Good Friday, the Saturday next after Good Friday, or of any day appointed by His Excellency's proclamation for a public fast, humiliation, or thanksgiving, or any day on which the public offices or offices of the courts shall be closed by order of the Governor in Council, shall be included in the computation of such period.

(a) See the amended scales of costs and fees, *post*.

ORDER III.

Rules.

14 Sept. 1869.

Actions at Law and Proceedings under Part II. of Act.

Plaint and Summons to appear.

Rule 1.—Every action under Part II. of Act shall be commenced by plaint, an entry of which shall be made by the registrar in the register, Part I., upon the application of the person desirous to bring the action or of the practitioner engaged in his behalf; and the entry in such register shall contain the date of the entry, the names and last known places of abode of the parties, the cause of action, and, where the demand is pecuniary, the amount sought to be recovered, and when compensation for trespass to land, or the land itself or a specific chattel, is sought to be recovered, a general description of the land or specific chattel.

Rule 2.—The plaint required by the last preceding rule shall consist of a simple and concise statement of the plaintiff's true cause of action, of which examples are given in the Schedule to these rules, and in actions of ejectment (or in which the remedy by ejectment is sought), and in actions for trespass to land, or in which damages for trespass to land are sought, shall have drawn upon or annexed thereto a plan, distinctly describing, by certain delineation, the land the subject of the action; and such plaint shall be written or printed, or partly written and partly printed, in a summons, bearing the number of the plaint, and hereafter referred to as the "plaint summons;" and such plaint and summons shall be in the form or to the effect of those in the Schedule, according as the circumstances of the case may require, excepting in those actions for money demands in which the plaintiff shall elect to proceed under section 56 of the Act, in which cases the statement of the claim and the summons, as given in Schedule V. to the Act, shall be a sufficient statement of the plaint and sufficient summons.

Rule 3.—Every plaint summons must contain the number of the plaint, and must be dated on the day on which the plaint is entered in the register, and must state the name, address, and occupation[a] of the plaintiff, and of the person intended to be brought before the court as defendant; and where any person sues or is sued in a representative character, he shall be so described in the summons; and every summons must be sealed with the seal of the court.

Rule 4.—No misnomer or inaccurate description of any person,[b] cause of action, date, or item of demand, or place in any plaint or plaint summons, shall vitiate the same if the person, cause of action, date, or item of demand, or place be therein described so as to be reasonably known; and the court or judge may, at any stage of the cause, make such amendments therein as he shall think just.

Rule 5.—Any erasure or interlineation in a plaint summons at the time of the sealing thereof shall be sealed by the registrar, and

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(a) A description of the plaintiffs as "trustees" is insufficient; and this rule should be strictly adhered to.—*Shaw* v. *Hamilton*, 2 A.J.R., 86.

(b) This includes a corporation, see *Gredale* v. *The Guiding Star Mining Company*, A.R., 4 Sept. 1867.

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after the sealing of the plaint summons no alteration whatever shall be made therein without the leave of the judge, who shall initial any amendment or alteration which he shall make or direct to be made therein.

RULE 6.—In order to secure the due service upon the plaintiff of all notices, the trade, business, or profession of the plaintiff, as well as his address by the post, and also the surname and place of business of the practitioner engaged on his behalf (if any) in the action, must be stated at the foot of every such plaint summons and every copy thereof; but the omission of such statement shall not invalidate the proceedings or be deemed an irregularity, but shall disentitle the plaintiff to the costs of the plaint summons and of the service.

RULE 7.—Every plaint summons may be made returnable either on the first day of the sitting at the next court after the entry of the plaint, or by leave of the judge or registrar at any subsequent court to be held within six months; and the plaint in ejectment must be issued thirty-two clear days before the return day, and in all other actions eighteen clear days before the return day.

RULE 8.—When a plaint summons has not been served by the bailiff in any case in which the bailiff may have been required to serve the same, a fresh plaint summons may upon the order of the judge be issued without payment of any further fee for such summons, except a fresh bailiff's fee for service where the same is required to be served by the bailiff, and the failure of the service of the first plaint summons was not occasioned by the negligence of the bailiff; but where the bailiff was guilty of neglect he shall serve the fresh plaint summons without further fee.

Particulars of Demand.

RULE 9.—In all actions for goods bargained and sold and for goods sold and delivered, and in actions in which a special summons shall be issued under section 56 of the Act, and in actions of replevin, detailed particulars of demand, including dates, items, prices, and value, shall be indorsed upon or annexed to the plaint summons, but inaccuracies or omissions of detail in particulars shall not vitiate the same; but in all other actions no detailed particulars beyond the statement of the cause of action and the amount claimed as required by the preceding rules and the forms and examples given in the Schedule to these rules to be stated in plaint summons shall be necessary.

RULE 10.—In the instances in which, under the preceding rule, detailed particulars of the plaintiff's demand are necessary, the same shall be written or printed, or partly written and partly printed, and intituled in the cause, and shall be indorsed upon or annexed to the plaint summons.

RULE 11.—Upon application to the judge in chambers upon summons or to the court upon notice, the judge or court may in every case in which he or it thinks fit, and whether detailed particulars have been delivered or not, order further and better particulars of the plaintiff's claim or demand to be delivered; and such order may be made either with or without terms as to payment of costs by

either defendant or plaintiff, or as to adjournment or otherwise, as to the court or judge shall seem just.

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Plaint Notes.

RULE 12.—At the time of sealing the plaint summons the registrar shall give to the plaintiff, or to the practitioner engaged for him, a note under his hand and the seal of the court according to the form in the Schedule; and no money shall be paid out of court to the plaintiff or such practitioner unless on production of the plaint note, or, in the event of the plaint note being lost or destroyed, by order of the judge.

Time for Issuing, Filing, and Serving Plaint Summonses, and Mode of Service.

RULE 13.—Every special plaint summons issued under section 56 of the Act, must be issued at least twenty-three clear days before the return day thereof, and must be served either by the bailiff of the court or by the plaintiff's attorney or by a clerk in the permanent employ of such attorney, by delivering a copy to each of the defendants personally twenty-one clear days at least before the return day; and in order to enable the registrar to give the notice required by the 56th section of the Act, the plaintiff must file the plaint summons, with an affidavit of service indorsed thereon, within five days after the plaint summons shall have been served, but the judge may permit the summons to be filed at a later day; but in any case in which the plaintiff neglects to file the plaint summons within five days of the service the plaintiff shall be deemed to have waived his right to notice from the registrar, as to whether the defendant has or has not given notice of his intention to defend.

RULE 14.—Every plaint summons in ejectment must be issued thirty-two clear days before the return day thereof, and be served in the manner prescribed for the general service of plaint summonses thirty clear days at least before the return day thereof; but if the defendant cannot be found, and his place of abode shall not be known, or admission thereto cannot be obtained for serving the plaint summons, a copy of the summons shall be affixed to the door of the dwelling-house or to some conspicuous part of the property sought to be recovered, and such affixing shall be deemed good service on the defendant.

RULE 15.—Every plaint summons in all other actions must be issued eighteen clear days before the return day thereof, and be served fifteen clear days at least before the return day thereof.

RULE 16.—Every plaint summons, whatever the cause of action, shall be filed with the registrar, with an affidavit of service by the person effecting the service and stating the time and mode of service indorsed thereon or annexed thereto, ten clear days at least before the return day thereof, unless the judge shall direct the registrar to file the same at a later date *nunc pro tunc;* and if the plaint summons be not filed under this rule the plaintiff shall be deemed to have discontinued the action, and the defendant shall be entitled to his costs against the plaintiff upon an order by the judge.

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Service of Plaint Summons, other than Special Plaint Summons, under Section 56 of the Act.

RULE 17.—The service of the plaint summons, except in the cases in these rules specially provided for, shall be either personal, or by delivering the same to some person apparently sixteen years old, an inmate at the place of dwelling or place of business of the defendant; but no place of business shall be deemed the place of business of the defendant unless he shall be the master or one of the masters thereof.

RULE 18.—Where a defendant is living at a hotel or boarding-house, or living or serving on board of any ship or vessel, it shall be sufficient service to deliver the plaint summons to the person at the hotel or boarding-house, or on board the ship or vessel, who is at the time of such service apparently in charge of such hotel or boarding-house, ship, or vessel.

RULE 19.—Where a defendant is residing or quartered in any barracks and serving Her Majesty as a soldier or marine, it shall be sufficient service to deliver the plaint summons at the barracks to the adjutant of the corps, or to any officer or sergeant of the company or troop to which such soldier or marine belongs.

RULE 20.—Where a defendant is a prisoner in a gaol, it shall be sufficient service to deliver the plaint summons at the gaol to the governor or any person appearing to be the head officer in charge thereof.

RULE 21.—Where the defendant is employed and dwells in any lunatic or other public asylum, or in any common gaol or house of correction, it shall be sufficient service to deliver the plaint summons to the gatekeeper or lodgekeeper of the asylum, gaol, or house of correction.

RULE 22.—Service of the plaint summons must be effected on a corporation in the manner prescribed by the charter or Act of incorporation, and when no particular mode is prescribed, then the service may be effected by delivering the same to the secretary or other officer at the office of the corporation.

RULE 23.—Service of the plaint summons may, by leave of the judge, obtained upon affidavit stating some difficulty of effecting service under the preceding rules, be substituted by such mode of service as the judge shall think fit.

RULE 24.—If any dispute shall arise, or the judge shall entertain any doubt as to the due service of any summons, the judge shall be at liberty to examine witnesses and to decide whether such service has been good or otherwise, and either to proceed to hear or defer the hearing as he shall think fit, or under special circumstances to order that a person insufficiently served, if notice of the plaint summons shall have come to his knowledge, shall be deemed a defendant, and the cause shall proceed as though such defendant had been regularly served.

RULE 25.—Admission in writing of service by the practitioner acting on behalf of defendant will be sufficient, and in that case no affidavit of service will be necessary, but such admission must be filed with the plaint summons.

Service of Summonses generally.

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RULE 26.—The above rules as to the mode, but not as to the time of service of plaint summons, shall apply to the mode of service of all summonses whatsoever, except where otherwise directed by statute or by these rules.

Actions by Consent.

RULE 27.—Where the parties in pursuance of section 39 of the Act shall consent to try any action in a county court, an entry of the plaint shall be made in the register, and a plaint summons shall be issued as in other cases, and all the rules and practice of the court shall be adopted in such cases as far as the same are applicable; and such consent shall be indorsed upon the plaint summons in the following terms:—"We, A.B., of, &c., and C.D., of, &c., being the plaintiff and defendant named in the within plaint summons, hereby express our consent in writing under the provisions of section 39 of the '*County Court Statute* 1869,' that the causes of action stated in the plaint in the within plaint summons shall be tried in the County Court at [*name place where cause is to be heard.*]

A.B.
C.D.

Witness to the signatures of the
said A.B. and C.D.
Y.Z."

Actions of Contract sent for Trial by Supreme Court.

RULE 28.—Where a judge of the Supreme Court orders a cause to be tried in a county court under section 42 of the Act, the plaintiff shall, with the original writ and the judge's order, lodge with the registrar of the county court named in such order a statement of the name, address, and occupation of himself, and of the defendant, and if the writ has not been specially indorsed, a statement of the particulars of his demand or cause of action, and as many copies of such last mentioned statements as there are defendants; and thereupon the registrar shall appoint a day for the hearing of the cause, and shall indorse on the writ the date of the lodgment thereof and of such statement.

RULE 29.—Unless the judge of the county court shall otherwise order, any cause so sent by order of a judge of the Supreme Court to be tried in a county court shall be heard at the next sittings of such county court for which summonses on plaints are then being made returnable; and the registrar shall give notice of the day to the parties or their attorneys, by post or otherwise, ten days before such day; and where a statement of the particulars of the plaintiff's demand or cause of action shall have been lodged, shall, with the notice, send to the defendant, or to each of the defendants if more than one, a copy thereof, sealed with the seal of the court.

Action of Tort remitted by the Supreme Court.

RULE 30.—Where any action of tort is remitted by order of a judge of the Supreme Court under section 43 of the Act to be tried in a county court, the plaintiff shall, at whatever stage of the

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proceedings such order is made, with the original writ and the judge's order, lodge with the registrar of the county court named in such order a statement of the names, addresses, and descriptions of himself and of the defendant, and a concise statement in writing, signed by himself or his attorney, of his cause of action, and as many copies thereof as there are defendants, and thereupon the registrar shall appoint a day for the hearing of the cause, and shall indorse on the writ the date of the lodgment thereof and of such statement.

RULE 31.—Unless the judge of the county court shall otherwise order, any action of tort so remitted by order of a judge of the Supreme Court to be tried in a county court, shall be heard at the next sittings of such county court for which summonses on plaints are then being made returnable; and the registrar shall give notice of the day to the parties or their attorneys, by post or otherwise, ten days before such day, and shall, with the notice thereof, send to the defendant, or to each of the defendants, if more than one, a copy of the statement of the plaintiff's cause of action, sealed with the seal of the court.

RULE 32.—Where, in any action for libel or slander remitted under section 43 of the Act to be tried in the county court, the defendant intends to avail himself of "*The Statute of Wrongs* 1865,"[a] he shall give notice in writing of such intention, signed by himself or by a practitioner engaged on his behalf, to the registrar six clear days at least before the day appointed for the trial of the action.

Judgment by Confession.

RULE 33.—In consents to judgment under section 55 of the Act taken before a justice of the peace or before an attorney, the person taking the same shall state in the attestation that he read over and fully explained the consent to the defendant, and that he appeared to understand the same before he signed it; and without this attestation no consent shall be filed or judgment entered upon it, unless it be a consent taken before the registrar.

Judgment by Default.

RULE 34.—In actions brought under section 56 of the Act, the registrar shall, after the plaint summons and affidavit of service shall have been filed, and after the expiration of the period fixed within which the defendant should give notice of his intention to defend, and in default of such notice, upon the application of the plaintiff, or the practitioner acting for him, enter up judgment in the register for the plaintiff for the debt and costs as taxed by the registrar and interest (if any) as computed by him, and the time when or within which or by what instalments (if any) the debt and costs are to be paid.

Arbitration.

RULE 35.—The order to refer under section 62 of Act may be made before, upon, or after the return day; and if either party seek

(a) This Statute enables a defendant to apologize, or to pay money into court by way of amends, coupled with an apology.

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to set aside the award he shall, within three days after he has received notice of the award, give notice to the opposite party of his intention to apply to the court or a judge for that purpose, and in default of that notice judgment shall be forthwith entered up in accordance with the award.

RULE 36.—Where the parties agree to refer any action or other matters to the judge, such reference may be taken either in court or in chambers, as the judge shall think fit.

Payment into Court.

RULE 37.—Where the defendant is desirous of paying money into court, it shall, except where otherwise expressly provided, be paid six clear days before the return day, with court fees proportionate to the amount paid in, and the practitioner's costs, if any, which shall be fixed by the registrar; and the registrar shall, within twenty-four hours from the time of such payment, send to the plaintiff notice thereof by post: Provided that, at any time before the return day, the defendant may pay money into court, with costs, and the registrar shall give notice thereof to the plaintiff as aforesaid; but where money is so paid in less than six clear days before the return day, it shall be lawful for the court to order the defendant to pay such costs as the plaintiff shall have incurred in preparing for trial before the notice of such payment was received by him or in attending the court.

RULE 38.—If the plaintiff elect to accept, in full satisfaction of his claim, including costs, such money as shall have been paid into court by the defendant, and shall send to the registrar and to the defendant by post, or leave at the registrar's office and at the defendant's place of dwelling or place of business, a written notice, stating such acceptance, within such reasonable time before the return day as the time of payment by the defendant has permitted, the action shall abate, and the plaintiff shall not be liable to any costs; but in default of such notices from the plaintiff, he shall be deemed to have elected to proceed, and the defendant shall be entitled to judgment for his costs incurred subsequently to payment into court unless the plaintiff shall recover a judgment for a larger amount than the sum paid into court, and the money paid into court shall remain till after the hearing as a security for payment thereon of the defendant's costs.

RULE 39.—Payment into court may be made either in respect of the whole of the cause of action, or of such part thereof only as the defendant shall state in his notice.

RULE 40.—Where a defendant, in an action of libel commenced in a county court or remitted under section 43 to be tried in a county court, pays money into court under section 54, the last two rules shall apply to and be observed with reference to such payment into court so far as they are applicable.

RULE 41.—Payment into court shall operate as an admission *pro tanto* of the cause of action in respect of which it is paid, but shall not be given in evidence against the defendant at the hearing.

RULE 42.—No money shall be taken out of court by the plaintiff unless on filing the plaint note, or by the defendant unless

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on filing the summons on the plaint, except by order of the judge. Payment out of court to any person producing and filing such note, summons, or order shall be sufficient.(a)

Defences.

RULE 43.—Where the defendant intends to rely on a set-off, illegality, infancy, coverture of defendant, a statute of limitation, or discharge of defendant under any Insolvent Act, the truth of the libel or slander, or an equitable or statutory defence, his notice shall contain the particulars hereinafter mentioned with reference to such grounds of defence: Provided, that in case of non-compliance with those rules which apply to notice of such defence, and of the plaintiff's not consenting at the hearing to permit the defendant to avail himself of such defence, the judge may, on such terms as he shall think fit, adjourn the hearing of the cause to enable the defendant to give such notice, within a reasonable time to be fixed by the judge before the day of adjournment.(b)

RULE 44.—Where a defendant intends to set-off any debt or demand alleged to be due to him by the plaintiff, he shall give notice thereof in writing to the plaintiff or to his attorney, and deliver to him a statement of the particulars of such set-off, at least six clear days before the return day.

RULE 45.—Where a defendant intends to rely upon the defence of illegality, he shall give notice thereof in writing to the plaintiff or his attorney, and deliver to him a statement of the nature of the illegality, at least six clear days before the return day.

RULE 46.—Where a defendant intends to rely on the defence of infancy, he shall give notice thereof in writing to the plaintiff or to his attorney at least six clear days before the return day, setting forth in such notice, so far as he is able, the place and date of his birth.

RULE 47.—Where a defendant intends to rely on the defence of coverture, she shall give notice thereof in writing to the plaintiff or to his attorney at least six clear days before the return day, setting forth in such notice, so far as she is able, the place and date of marriage, together with the Christian name and surname of her husband.

RULE 48.—Where a defendant intends to rely on the defence of any statute of limitations, he shall give notice thereof in writing to the plaintiff or to his attorney, at least six clear days before the return day.

RULE 49.—Where a defendant intends to rely on the defence of a discharge under any statute relating to bankrupts or for the relief of insolvent debtors, he shall give notice thereof in writing to the plaintiff or to his attorney at least six clear days before the

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(a) This rule refers only to payments before action tried; therefore the registrar is not justified in paying out a deposit made by a successful appellant.—*Moore* v. *Prest*, 1 A.J.R., 163.

(b) Where notice of defence was signed by a person who had not complied with the proviso of section 35 as to causing his name to be placed on the roll, it is insufficient; and the proper course to be pursued is that indicated by this rule, and not for the judge to refuse to hear the defence.—*Reg.* v. *Cope, ex parte Huthnance*, 1 A.J.R., 23.

return day, setting forth in such notice the date of the order of sequestration, certificate, discharge, or final order, and the court by which such certificate, discharge, or order was granted or made.

RULE 50.—Where in any action for libel or slander the defendant relies as a defence upon the fact that the libel for* slander is true, or of any defence or mitigation under "*The Statute of Wrongs* 1865," he shall give notice thereof in writing to the plaintiff or to his attorney at least six clear days before the return day, setting forth in such notice that the libel or slander complained of is true in substance.

*Sic.

RULE 51.—Where a defendant intends to rely on an equitable defence, he shall give notice thereof in writing to the plaintiff or to his attorney at least six clear days before the return day, and shall therein state the fact constituting such equitable defence.

RULE 52.—When in any action of tort the defendant relies upon a statutory defence, he shall give notice thereof in writing to the plaintiff or to his attorney at least six clear days before the return day, and shall mention the number and section of the statute on which he relies.

RULE 53.—In all cases mentioned in the last nine rules the party thereby required to give the notice shall, unless otherwise expressly ordered, at least six clear days before the return day, deliver to the registrar of the court, who shall make an entry thereof, an additional copy to be filed for the use of the judge; and the notices required may be sent by post, provided they be posted, prepaid, in time for delivery within the time limited.

RULE 54.—Where the defence is a tender, such defence shall not be available unless, before or at the hearing of the cause, the defendant pays into court (which may be without costs) the amount alleged to have been tendered.

Evidence, Inspection of Documents, Discovery of Documents, and Admissions.

RULE 55.—Any party requiring a summons to compel the attendance of witnesses shall file a præcipe with the registrar, in the form in the Schedule.

RULE 56.—In a summons containing a clause requiring the production of books or papers, the name of one witness only shall be inserted, excepting in the case of co-partners, when all the members of the firm may be included in one summons.

RULE 57.—In other cases any number of witnesses may be inserted in the summons, and in the copy of the summons served the name of the witness to be served only need be inserted.

RULE 58.—The original summons must, in all cases, be signed and sealed by the registrar or assistant registrar.

RULE 59.—Application to the judge for inspection of property or of documents, or to compel the opposite party to disclose what documents are in his possession or under his control, under Part II. of the "*Evidence Statute* 1864" or under section 66 of the Act, shall be made on summons returnable in chambers, supported by an affidavit disclosing the facts upon which the application is based,

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and the summons must be served five clear days at least before the day of hearing.

RULE 60.—In exceptional cases the application may be made to the court, upon notice, supported by affidavit disclosing the facts upon which the application is based, and stating the reason for the delay in making the application, and any order made thereon shall be made upon such terms as to postponement of the hearing and costs as to the judge shall seem just.

NOTE.—As to service, see Rule 26, "Service of Summonses generally."

Admission.

RULE 61.—Either party may call upon the other party by notice in writing to admit, saving all just exceptions, any document to be used in any action; and in case of refusal or neglect to admit the same, the cost of proving such document shall be paid by the party so neglecting or refusing, whatever the result of the cause may be, unless at the trial the judge shall be of opinion that the refusal was reasonable. And no costs of proving any document shall be allowed, unless such notice shall have been given, except in cases where the omission to give the notice has in the opinion of the judge saved expense.

RULE 62.—That an affidavit of the party, or of the practitioner engaged in his behalf in the action, or of a clerk to such practitioner, of the due signature of any admission made in pursuance of such notice, and indorsed upon or annexed to the admission, shall be sufficient evidence of such admission.

Proof of Notice to Produce.

RULE 63.—Service of notice to produce in respect of which notice to admit shall have been given, and an admission shall have been refused, may be proved, either orally at the hearing or by affidavit of the person who shall have served the same, and the cost of proving the same shall be paid by the party refusing to admit the service.

Discontinuance.

RULE 64.—The plaintiff may discontinue his action at any stage of the proceedings, without an order for that purpose, upon giving the defendant and to the registrar notice in writing to that effect; and the defendant may thereupon file such notice and take out an appointment to have his costs taxed by the registrar, of which he shall give notice by post to the plaintiff; and when the defendant attends the taxation, the defendant shall produce to the registrar the notice of discontinuance, whereupon (whether the plaintiff attends or not) the registrar shall enter in the register "Discontinued," (which shall be equivalent to a nonsuit), and shall proceed to tax the defendant's costs, and enter judgment for the defendant for the amount of the taxed costs; and if the costs be not paid, the defendant may recover the same by execution.

Adjournment of Cause.

RULE 65.—The parties to any cause, at any time before the cause is called on, may, by consent in writing, postpone the hearing to such subsequent court as the judge shall direct.

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RULE 66.—When a cause is adjourned, no order of adjournment shall be served on either party, unless by direction of the judge.

RULE 67.—When anything required by the practice of the court, or by order of the judge, to be done by either party, before or during the hearing, has not been done, the judge may, in his discretion, and on such terms as he may think fit, adjourn the hearing, to enable or to compel the party to comply with the practice or order.

RULE 68.—Applications to adjourn the hearing, upon the ground of the absence of a material witness, shall be made upon affidavit, or, if the judge permit, upon oral examination.

Hearing.

RULE 69.—Any defendant intending to appear by a practitioner at the hearing shall intimate his intention to the registrar, in order that the cause may be placed in the list of defended causes. But this rule will not apply to a practitioner drawing attention to a defective service or defective process.

RULE 70.—Where a plaintiff avails himself of the provisions of section 49 of the Act, and proceeds against one or more of several persons jointly answerable, the defendant or defendants sued or served may avail himself or themselves of any set-off or other defence to which he or they could be entitled if all the persons answerable were made defendants.

RULE 71.—When, at the hearing of any cause, it shall appear that an action for the same cause is pending in any other court, the judge shall order the cause to be struck out, with costs, and which shall have the effect of a discontinuance by the plaintiff, unless the plaintiff shall undertake to discontinue the action in such other court before a day to be named, to which the hearing shall be adjourned; and unless, before such adjourned hearing, such action shall have been discontinued, the cause shall then be struck out, with costs, and the registrar shall enter "Discontinued," and an order for costs to the defendant, in the register; and the defendant shall be entitled to execution for his costs, unless paid within twenty-four hours.

Amendment as to Parties.

RULE 72.—Any application by a party sued alone, where others are jointly answerable, to amend by adding co-defendants, under section 49 of the Act, shall be made upon summons, taken out and served six clear days at least before the return day of the plaint summons, and returnable on any day either before or on the return day of the plaint summons as the registrar may appoint, supported by affidavit, in which shall be set out the names and addresses of the several persons whom it is sought to have made co-defendants.

RULE 73.—Where a person other than the defendant appears at the hearing, and admits that he is the person whom the plaintiff intended to charge, his name may be substituted for that of the defendant, if the plaintiff consents, and thereupon the cause shall proceed, as to set-off and other matters, as if such person had been

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originally named in the summons, and the costs of the person originally named as the defendant shall be in the discretion of the judge.

RULE 74.—Where a party sues or is sued in a representative character, but at the hearing it appears that he ought to have sued or been sued in his own right, the judge may, at the instance of either party, and on such terms as he shall think fit, amend the proceedings accordingly, and thereupon the cause shall proceed, as to set-off and other matters, as if the proper description of the party had been given in the summons.

RULE 75.—Where a party sues or is sued in his own right, but at the hearing it appears that he ought to have sued or been sued in a representative character, the judge may, at the instance of either party, and on such terms as he shall think fit, amend the proceedings accordingly, and thereupon the cause shall proceed, as to set-off and other matters, as if the proper description of the party had been given in the summons.

RULE 76.—Where the name or description of a *plaintiff* in the summons is insufficient or incorrect, it may at the hearing be amended at the instance of either party by order of the judge, on such terms as he shall think fit, and thereupon the cause shall proceed, as to set-off and other matters, as if the name or description had been originally such as it appears after the amendment has been made.

RULE 77.—Where the name or description of a *defendant* in the summons is insufficient or incorrect, and the defendant appears and objects to the description, it may at the hearing be amended at the instance of either party by order of the judge, on such terms as he shall think fit, and thereupon the cause shall proceed, as to set-off and other matters, as if the name or description had been originally such as it appears after the amendment had been made; but if no objection is taken to the name or description the cause may proceed, and in the judgment and all subsequent proceedings founded thereon the defendant may be named and described in the same manner.

RULE 78.—In actions by or against a husband, if a wife be improperly joined or omitted as a party, the plaint summons may at the hearing be amended at the instance of either party by order of the judge, on such terms as he shall think fit, and thereupon the cause shall proceed, as to set-off and other matters, as if the proper person had been made party to the suit.

RULE 79.—Where it appears at the hearing that a *greater* number of persons have been made *plaintiffs* than by law required, the name of the person improperly joined may, at the instance of either party, be struck out by order of the judge, on such terms as he shall think fit, and thereupon the cause shall proceed, as to set-off and other matters, as if the proper party or parties had alone been made plaintiffs.

RULE 80.—Where it appears at the hearing that a *less* number of persons have been made *plaintiffs* than by law required, the name of the omitted person may, at the instance of either party, be added, by order of the judge, if such person shall, either at the

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hearing or at some adjournment thereof, personally or by writing, signed by him or his agent, consent to become a plaintiff, and the judge shall pronounce judgment as if such person had originally been made a plaintiff; but if such person shall not consent to become a plaintiff in manner aforesaid, either at the hearing or at the adjournment thereof, judgment of nonsuit shall be entered.

RULE 81.—Where it appears at the hearing that a *greater* number of persons have been made *defendants* than by law required, the name of the person improperly joined may, at the instance of either party, be struck out by order of the judge, on such terms as he shall think fit, and thereupon the cause shall proceed, as to set-off and other matters, as if the proper party or parties had alone been made defendants, and the costs of the person improperly joined as a defendant shall be in the discretion of the judge.

RULE 82.—Where two or more persons are made defendants, and some of them have not been served, the name or names of the defendant or defendants who have not been served, may, at the instance of either party, be struck out by order of the judge, on such terms as he shall think fit; and thereupon the cause shall proceed, as to set-off and other matters, as if the party or parties whose name or names have not been struck out had alone been made defendant or defendants.

Abatement of Action.

RULE 83.—Where one or more of *several* plaintiffs or defendants shall die *before* judgment, the suit shall not abate, if the cause of action survive to or against the surviving parties respectively.

RULE 84.—Where one or more of *several* plaintiffs or defendants shall die *after* judgment, proceedings thereon may be taken by the survivors or survivor, or against the survivors or survivor, without leave of the court.

RULE 85.—Where a married woman is sued as a *feme sole*, and she obtains judgment on the ground of coverture, proceedings may be taken thereon, in the name of the wife, at the instance of the husband, without leave of the court.

Execution by Person not a Party to Suit.

RULE 86.—Execution on a judgment may issue on behalf of any person not a party to the suit by leave of the judge, upon proof of title to the benefit of the judgment, and upon substitution of the name of the new plaintiff, together with a statement of his derivative title for that of the original plaintiff; and the registrar shall give notice of such substitution to the defendant by post, and execution shall not issue upon the judgment until the expiration of six clear days after the posting of the notice.

Proceedings in the Nature of Scire Facias.

RULE 87.—Execution on a judgment shall not issue against any person not a party to the suit without a plaint summons upon the judgment, the proceedings upon which shall be the same as in ordinary cases.

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RULE 88.—Where a judgment has been given against a person deceased, his executors or administrators may in the same manner be sued upon the judgment.

Ejectment.

RULE 89.—Subject to the provisions as to ejectment in the preceding rules and to the following rules, and to the provisions in the "*Common Law Procedure Statute*," Part II., Practice (II.), Ejectment,[a] so far as such provisions are not altered as to county courts by these orders and rules, the action of ejectment shall be commenced, carried on, and determined in the same manner as other actions in the county court.

RULE 90.—All the parties in whom the title is alleged to lie shall be plaintiffs, and the persons alleged to be in possession or apparent possession of the property sought to be recovered shall be defendants; and the statement of the cause of action in the plaint as set out in the plaint summons shall contain a full description of the property sought to be recovered, together with a plan drawn thereon or annexed of the property, and a statement of the annual value of the property, and of the rent if there be any fixed or paid in respect thereof (but the value in rent stated need not be proved by the plaintiff), and a statement of the relation in which the plaintiff seeks to recover possession of the same, and if there be two or more relations in which the plaintiff claims title to the property, each may be stated separately; and if the plaintiff seeks "mesne profits," he may demand in the plaint summons damages for the wrongful possession of the property, or bring his separate action for the same.

RULE 91.—Any person not named as defendant in a summons in ejectment shall, by leave of the registrar, be allowed to appear and defend, on filing, twelve clear days before the return day, an affidavit, together with as many copies thereof as there are plaintiffs and defendants, showing that he is in possession, either by himself or his tenant, of the property mentioned in the summons, or some part thereof (such part being described in the affidavit with reasonable certainty).

RULE 92.—Upon such affidavit being filed, the registrar shall enter the name, address, and description of the person filing the same in the register as defendant, in addition to the names of the person or persons originally made defendants, and shall forthwith give notice, by post or otherwise, to the plaintiffs and defendants, or the practitioners retained by them, that the person filing the affidavit has filed the same, and will appear and defend at the trial of the action, annexing to each notice a copy of the affidavit.

RULE 93.—Any defendant in ejectment may give notice in writing, signed by himself or his practitioner, to the registrar, twelve clear days before the return day, that he intends to limit his defence to a part only of the property mentioned in the plaint summons, describing that part in such notice with reasonable

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(*a*) See 28 Vict. No. 274 s. 148 *et seq.*, the "*Common Law Procedure Statute* 1865," *ante*, p. 139.

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certainty, and with such notice he shall deliver to the registrar as many copies thereof as there are plaintiffs, and the registrar shall forthwith send the same, sealed with the seal of the court, by post to each of the plaintiffs or practitioners retained by them.

Rule 94.—Want of "reasonable certainty" in the description of the property or any part of it in any summons or notice shall not nullify it, but the judge may, if he sees fit, order the description to be amended at the hearing, or he may order an amended description to be delivered, subject in either case to such terms as he may think fit.

Rule 95.—Any action of ejectment may, if either party require a jury to be summoned, be tried by a jury in the same manner and subject to the same rules as other actions tried by juries in the county courts.

Rule 96.—Every action of ejectment shall be tried as actions in the county courts, and the question at the trial shall, except in the cases hereafter mentioned in Rules 103 and 106, be whether the statement in the plaint summons of the title of the plaintiffs is true or false, and if true, then which of the plaintiffs is entitled, and whether to the whole or part, and if to part, then to which part of the property mentioned in the summons; and the judgment shall be in the form in that behalf provided in the Schedule to these rules, or to the like effect, with such modifications as may be necessary to meet the facts.

Rule 97.—Where the title of the plaintiff shall appear to have existed as alleged in the summons, and at the time of the service thereof, but it shall also appear to have expired before the trial, the plaintiff shall be entitled to a judgment according to the fact that he was so entitled, and for his costs of suit, unless the judge shall otherwise order.

Rule 98.—Where at the hearing any defendant appears and the plaintiff does not appear, the case shall be struck out, and the defendant appearing shall have judgment for his costs; and if the plaintiff appears and no defendant appears, the plaintiff, on proof of the service of the summons and of his title, shall be entitled to judgment for the recovery of possession.

Rule 99.—Where all parties to any action of ejectment agree upon the facts, they may, by leave of the registrar, state a case for the opinion of the judge, and the action shall in such case be heard and determined by the judge upon the facts stated in such case: Provided, that if the parties state a case under this rule they shall deliver to the registrar, six clear days before the return day, two copies, signed by the parties or their respective practitioners, of such case, with the points to be argued stated in the margin; and the registrar shall seal both copies, and forthwith send one of such copies to the judge and file the other.

Rule 100.—Where in an action of ejectment judgment is given for the plaintiff, execution may issue upon a day to be named in the judgment, and if no day be named then it may issue after the expiration of fourteen clear days from the day on which judgment shall have been given, unless the judge shall otherwise order.

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RULE 101.—Where any judgment in ejectment has been obtained for recovery of possession and costs, or for recovery of possession, damages for mesne profits and costs, there may be either one warrant or separate warrants of execution for the recovery of possession, and for the costs, or for possession, or for damages for mesne profits and costs, at the election of the plaintiff.

RULE 102.—Where a judgment in ejectment is given for the defendants or any of them, execution may issue for costs against the plaintiffs upon a day to be named in the judgment, and if no day be named then it may issue after the expiration of fourteen clear days from the day on which judgment shall have been given, unless the judge shall otherwise order.

RULE 103.—Where upon the trial of any action of ejectment it shall be proved that the defendant is joint tenant, tenant in common, or coparcener with the plaintiff, then, unless also an actual ouster of the plaintiff shall be proved, the defendant shall be entitled to judgment and costs; but if such ouster be proved, then the plaintiff shall be entitled to judgment for the recovery of possession and costs.

RULE 104.—The death of a plaintiff or defendant shall not cause an action of ejectment to abate, but it may be continued as provided by the following rules.

RULE 105.—Where any party to an action of ejectment dies before the return day, the surviving party or parties thereto shall appear in court on the return day.

RULE 106.—Where a sole plaintiff or one of several plaintiffs in ejectment claiming otherwise than as joint tenants dies before the return day, it shall be lawful for the legal representative of such deceased plaintiff, on the return day, to apply to the judge, upon filing an affidavit of the death of the deceased plaintiff and of his own representative character, for leave to continue the action in his own name as plaintiff; and the judge may make an order granting such leave, upon such terms, as to adjournment and payment of costs, as he shall see fit, and thereupon the entry of the plaint in the register shall be amended by substituting for the name of the deceased plaintiff the name of the applicant as legal representative of the deceased plaintiff; and the substituted plaintiff shall not recover unless he shall prove the title of the deceased plaintiff as stated in the summons, and also that he is legal representative of the deceased plaintiff, but upon proof of such title and of his representative character as alleged, he shall be entitled to judgment for the recovery of possession and costs: Provided that if the defendant do not appear on the return day, the cause shall be adjourned, and a copy of the order shall be sent by the registrar by post or otherwise to the defendant.

RULE 107.—Where one of several plaintiffs dies before the return day, and no application be made on the return day by the legal representatives of the deceased plaintiff, the name of the deceased plaintiff shall be struck out, and the action shall proceed and be tried as between the surviving plaintiff and the defendant; and the surviving plaintiff shall have judgment for the recovery of the whole of the property mentioned in the summons if he shall prove himself entitled thereto, or if not, then for the recovery of

such part or share thereof as he shall prove himself entitled to, and for costs.

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RULE 108.—Where judgment in ejectment is given for two or more plaintiffs, and one or more of such plaintiffs die after judgment and before execution is executed, the surviving plaintiff or plaintiffs may apply to the registrar, upon an affidavit stating the death of the deceased plaintiff or plaintiffs, to make an entry in the register of the death of such plaintiff, and strike out therefrom the name of the deceased plaintiff or plaintiffs, and to issue execution for the recovery of the possession of the entirety of the property and the costs; but nothing herein contained shall affect the right of the legal representatives of the deceased plaintiff or plaintiffs, or the liability of the surviving plaintiff or plaintiffs to such legal representatives; and the entry of possession of such surviving plaintiff or plaintiffs under such execution shall be considered as an entry of possession on behalf of such legal representatives in respect of the property to which they shall be entitled as such representatives.

RULE 109.—Where a sole plaintiff or all the plaintiffs in ejectment shall die after judgment, but before execution executed, any person or persons entitled upon the death of the plaintiff or plaintiffs to the property recovered may issue execution, upon leave of the judge, as provided by Rule 86. ["Execution by person not a party."]

RULE 110.—Where before or after the return day one or more of several defendants in ejectment who defend jointly shall die, the name of the deceased defendant shall, upon application of either party, and upon proof of the death, be struck out, and the action shall proceed against the surviving defendant or defendants.

RULE 111.—Where a sole defendant or all the defendants in an action of ejectment shall die before the return day, any person or persons claiming to be entitled to the property on the death of the defendant or defendants may apply at the hearing to the judge, upon filing an affidavit stating such death, and the grounds upon which he claims the property, for leave to defend in the place of the deceased defendant or defendants, and the judge may make an order granting such leave upon such terms as to adjournment and payment of costs as he may see fit, and thereupon the entry of the plaint in the register shall be amended by substituting the name of the applicant for that of the deceased defendant, and the action shall proceed as if the applicant had originally been defendant.

Provided, that if no such application be made, the action may proceed and be tried as in the case of the non-appearance of a defendant, and the plaintiff, upon proof of the service of the summons and of his title to the property, shall be entitled to judgment for the recovery of possession.

Provided also, that if no such application be made, any person claiming to be entitled to the property upon the death of the defendant or defendants may apply for a new trial, upon filing an affidavit stating the death of the defendant, the grounds upon which he claims the property, and that he had no notice or knowledge of the summons before the return day thereof: and if the judge orders a new trial, the name of the applicant shall be substituted for that of the deceased

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defendant in the register and plaint summons, and the action shall proceed as if the applicant had originally been defendant; and if the judge refuses a new trial, he shall have power to order the applicant to pay the costs of the application.

RULE 112.—Where a sole defendant or all the defendants in ejectment shall die after judgment, the plaintiff shall nevertheless be entitled to proceed by execution for the recovery of possession, and to proceed by summons in the nature of a *scire facias* for the recovery of the costs against the legal personal representatives of the deceased defendant or defendants.

RULE 113.—Rule 111 shall apply to the case of the death before the return day in ejectment of one of several defendants who defends separately, whether any other defendant defends for the same property or not.

RULE 114.—Where a plaintiff in ejectment is desirous of not proceeding in the action, he may give notice thereof to the registrar and to the defendant by post, and upon the receipt of such notice the registrar shall enter in the minute book judgment of nonsuit with costs up to that day.

RULE 115.—Where a plaintiff in ejectment is desirous of not proceeding further in the action in respect of any portion of the property, he may give notice thereof by post to the registrar and to the defendant or defendants defending for such portion, describing in the notice such portion, and upon the receipt of such notice the registrar shall make a memorandum thereof in the register, and the action shall proceed for the recovery of the remainder of the property; and the defendant or defendants receiving such notice shall not be entitled to any further costs in respect of the defence for such portion of the property than those incurred up to the receipt of such notice, unless the judge shall otherwise order.

RULE 116.—Where one of several plaintiffs in ejectment is desirous of not proceeding in the action, he may apply to the judge on the return day to have his name struck out of the proceedings, and an order may be made thereupon as to costs or otherwise, as the judge thinks fit, and the action shall proceed at the suit of the other plaintiffs.

RULE 117.—A sole defendant or all the defendants in ejectment may, at any time before the return day, confess the action as to the whole of the property by signing in the presence of the registrar or of an assistant registrar, or of an attorney of the Supreme Court, and attested by the person in whose presence it is signed, an admission of the title of the plaintiff to the property, and of his right to the possession thereof; and the registrar shall upon the receipt of such admission forthwith give notice thereof by post to the plaintiff, and the judge may on the return day, upon proof of the signature of the defendant or defendants to such admission by affidavit or otherwise in case the same is not attested by the registrar or assistant registrar, but if attested by the registrar or assistant registrar then without such proof, and without any proof of the plaintiff's title, give judgment for the plaintiff for the recovery of possession and for costs: Provided that, if the plaintiff receive notice of such admission before the return day, he shall not be

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entitled to any costs incurred subsequently to the receipt of such notice, except the costs of attending the court on the return day, unless the judge shall otherwise order.

RULE 118.—Where one of several defendants who defends separately for a portion of the property for which no other defendant defends is desirous of confessing the action as to such portion and admitting the plaintiff's title thereto, he may sign a like admission as is provided for by the last preceding rule, describing in the admission such portion, and similar proceedings shall be taken thereupon as in the case of a confession of the action as to the whole of the property, and the action shall proceed against the other defendants.

RULE 119.—Where an action of ejectment shall be brought by any mortgagee or any person claiming under him for the recovery of the possession of any mortgaged property, and no suit shall be then depending in any superior court of equity, or in any county court, touching the foreclosure or redemption of such mortgage, a defendant or any of the defendants who shall have the right to redeem such mortgage may, ten clear days at least before the return day, pay into court such sum of money as may be due for principal and interest on such mortgage, and for costs, and the registrar shall thereupon give notice by post to the plaintiff of such payment into court; and on the return day if the plaintiff shall not appear, or if he shall appear and agree to accept the sum paid into court for principal, interest, and costs, or if the judge shall determine that the sum paid into court is sufficient, the court shall order the plaintiff within a certain time, at the defendant's expense, to reconvey the mortgaged property, and to deliver up to the defendant all the title deeds and writings relating thereto; but if the judge shall determine that the sum paid into court is not sufficient, he shall determine what further sum is due to the plaintiff for principal, interest, and costs, and shall order the same to be paid into court by the defendant on a day to be fixed, and shall further order that upon such further payment into court the plaintiff shall, within a certain time, at the defendant's expense, reconvey the mortgaged property and deliver up to the defendant all the title deeds and writings relating thereto, and that, upon default being made in payment of such further sum, that execution shall issue for the recovery of possession of the property and costs: Provided that where the judge finds the payment into court insufficient, and the defendant makes default in payment of the further sum found by the judge to be due, and the plaintiff issues execution for the recovery of possession, then the registrar shall, upon the application of the defendant, repay to him the sum before paid into court; provided further, that the registrar shall not pay out to the plaintiff the sum paid into court under this rule, except the costs last mentioned, unless he shall be satisfied by the affidavit of himself or of his practitioner that the plaintiff has reconveyed the mortgaged property to the defendant, and has delivered up to him all the title deeds and writings relating thereto.

Replevin.

RULE 120.—In actions of replevin no other cause of action shall be joined in the summons.

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RULE 121.—On entering a plaint in replevin, the plaintiff must specify and describe in a statement of particulars the cattle, or the several goods and chattels, taken under the distress, and of the taking of which he complains.

RULE 122.—All actions of replevin in cases of distress for rent in arrear, or for damage feasant, shall be tried in the same way as other actions in the county courts; and the judgment therein, in ordinary cases, whether for plaintiff or defendant, shall as near as may be follow the forms set forth in the Schedule.

RULE 123.—Where the distress is for rent, and the defendant succeeds in the action, if the defendant require, the judge shall, if the cause be tried without a jury, and the jury shall, if the cause be tried with a jury, find the value of the goods distrained; and if the value be less than the amount of rent in arrear, judgment shall be given for the amount of such value, but if the amount of rent in arrear be less than the value so found, judgment shall be given for the amount of such rent, and may be enforced in the same manner as any other judgment of the court.

RULE 124.—Where the distress is for damage feasance, and the defendant is entitled to judgment for a return, if the plaintiff require, the judge shall, if the cause be tried without a jury, and the jury shall, if the cause be tried with a jury, find the amount of the damage sustained by the defendant; and judgment shall then be given in favor of the defendant in the alternative, for a return, or for the amount of the damage so found.

Detinue.

RULE 125.—The judgment in detinue, if for the plaintiff, shall be for the value of the goods detained, together with a sum to be stated in the judgment by way of damages for the detention and costs; but it may be made part of the order that on payment of damages for the detention, and costs, and return of the goods on or before a day to be named, satisfaction shall be entered.

New Trial.

RULE 126.—An application for a new trial, or to set aside proceedings, may be made either to the court or to a judge in chambers.(a)

RULE 127.—Notice, in writing, of applications under the preceding rule, setting out the grounds thereof, must be served upon the opposite party in actions of ejectment within fourteen clear days, and in all other actions within seven clear days after the day of hearing, or the day upon which the proceedings sought to be set aside was taken.

RULE 128.—No notice of application for a new trial, or to set aside proceedings, shall operate as a stay of proceedings, unless the judge shall so order; but if any money paid into court under any execution or order in the suit shall not have been paid out when such

(a) Refused, where the amount is under £20—*Jamieson* v. *Courtney*, A.R., 23 Nov. 1867; or where it is in a matter of discretion—*Bank of New South Wales* v. *Thompson*, *ibid.*

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notice in writing shall be given to the registrar, the registrar shall retain the same, to abide the event of such application, or until the judge shall otherwise order; and if no such application be made, or, if made, be dismissed, the money shall be paid over to the party in whose favor the judgment, verdict, or order had been made.

RULE 129.—If the application be to the court, it may be made during the same sitting, if both parties be present, or during the next sitting, but not later than the next sitting; and if the application be made before the judge in chambers, then upon such day as the judge or the registrar shall appoint, not being later than the first day of the next sitting of the court at the place where the judgment, verdict, or order was made.

RULE 130.—If the application be to the court, it shall be upon notice. If the application be to the judge in chambers, then it shall be made upon summons, in which shall be set out or to which shall be annexed the grounds of the application; and such summons shall be deemed to be notice in writing under the preceding rules, and shall be served within the same time and in the same manner.

RULE 131.—Whether the application be upon notice or upon summons, it shall be supported by an affidavit, setting out the facts upon which the application is based, a copy of which affidavit shall be served upon the opposite party with the notice or summons.

Proceeding on a Judgment more than Six Years old.

RULE 132.—No warrant against the goods, or judgment summons, shall issue on a judgment more than six years old, unless some payment has been made into court under such judgment within twelve calendar months previously, or unless by leave of the judge, if he is satisfied that the judgment creditor has used all due diligence; but no notice to the defendant, previous to applying for such leave, shall be necessary, and such leave shall be expressed on the warrant or summons under the seal of the court.

Attachment of Debts.

RULE 133.—Where a plaintiff is desirous that the defendant, if the defendant shall have judgment given against him, shall be orally examined, forthwith after the judgment[a] shall have been given, as to what debts are due and owing to him, the plaintiff shall, before the cause is called on, lodge with the registrar a statement in writing of the name, address, and description of the person or persons within the jurisdiction of the court whom he considers are debtors to the defendant.

RULE 134.—Where such a statement has been lodged by a plaintiff, the defendant, if he shall have had judgment given against him, may be examined before the court at the request of the plaintiff as to any debts due and owing, or accruing from any person mentioned in the statement to the defendant, and the court may order such debts to be attached to answer the judgment debt, and if such person be then present, he may be ordered forthwith to show

(a) Unless all the proceedings are regular, the garnishee is not protected; and an affidavit by an officer of a bank on its behalf should distinctly state he is such officer.—*London Chartered Bank* v. *Webb*, 1 A.J.R., 119.

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cause why he should not pay into court, for the benefit of the judgment creditor, such debts or so much thereof as will satisfy the judgment debt, and if such third person admits such debts the court may make an order for the payment of such debts, or so much thereof as will satisfy the judgment debt, and such order shall be entered in the register, and may be enforced in like manner as any order made in any suit in the court; and where the garnishee pays the money as ordered, he shall not be liable for any costs; and an entry of the payment shall be made in the register and in the suitors' cash book.

Rule 135.—Where a plaintiff has not lodged such statement, or where having lodged such statement the person named in such statement shall not be present in court or shall not admit such debt to be due, owing, or accruing as aforesaid, the plaintiff may, at any time after the judgment, upon lodging with the registrar of the court in which the judgment was given an affidavit stating the fact of the judgment, and of its being unsatisfied, and that a third person (hereinafter called the garnishee) is within the jurisdiction and is indebted to the judgment debtor, make an *ex parte* application to the judge for an order to attach such debts to answer the judgment debt and for an order for a summons calling upon the garnishee to show cause at a time and place to be named in such order why he should not pay the judgment creditor the debt due from him to the judgment debtor or so much thereof as may be sufficient to satisfy the judgment debt, and if the judgment debtor shall not attend to show cause against such order, or attending shall not admit the debt, the judge shall make an order that execution shall issue without further process, unless the garnishee shall pay the said debt or so much thereof as may be sufficient to satisfy the judgment debt into court within a time to be named in such order, and such costs, if any, as the judge may order. But if the garnishee shall appear to show cause against such order and shall dispute such debt, then the judge may give leave to the judgment creditor to enter a plaint in the nature of a *scire facias* for the amount of the debts alleged to be due to the judgment debtor from the garnishee.

Rule 136.—The summons on such plaint shall be personally served on the garnishee, and when so served it shall attach in the hands of the garnishee all debts due, owing, or accruing from him to the judgment debtor.

Rule 137.—Where the garnishee shall pay the money into court five clear days before the return day, he shall not be liable for any costs incurred by the judgment creditor.

Rule 138.—Upon the return day the court shall determine as to the liability of the garnishee, and as to the party by whom the cost of the proceeding by plaint shall be paid, and make an order or orders in accordance with such determination.

Warrants of Execution against the Goods.

Rule 139.—Where a defendant has made default in payment of the whole amount awarded by the judgment, or of an instalment thereof, a warrant of execution, without leave of the court, may issue against his goods; and such execution shall be for the whole amount of the judgment and costs then remaining unsatisfied,

unless in the case of instalments, the judge shall otherwise specially direct in each case at the time of giving judgment. Rules. 14 Sept. 1869.

RULE 140.—The registrar shall, on issuing a warrant of execution against the goods, indorse on such warrant the amount to be levied, distinguishing the amount adjudged to be paid, and the amount of the fee for issuing the warrant.

Interpleader.

RULE 141.—Where any claim is made to or in respect of any goods or chattels taken in execution under the process of any county court, or in respect of the proceeds or value thereof, the claimant shall forthwith or within twenty-four hours after making his claim deliver to the bailiff, or leave at the office of the registrar of the court a particular of any goods and chattels alleged to be the property of the claimant, and the grounds of his claim, or in the case of a claim for rent of the demand thereof, and for what period and in respect of what premises the same is claimed to be due, and the name, address, and description of the claimant, shall be fully set forth in such particular; and money paid into court (if any) under the execution shall be retained by the registrar until the claim shall have been adjudicated upon, and by leave of the judge such particulars may, at any stage of the case, be amended, or by consent may be altogether dispensed with.

RULE 142.—Interpleader summonses other than interpleader summonses returnable before justices of the peace shall be issued by the registrar on the application of the bailiff without leave of the court, and may be made returnable before the judge sitting either in court or in chambers, on any day fixed by the registrar, not being less than three clear days before the return day, and shall be served in the same manner as a plaint summons not less than two clear days before the return day, but by consent in writing, indorsed on the summons, the same may be made returnable forthwith so soon as the same can be heard and service may by like consent be dispensed with.

RULE 143.—Where the claim to any goods or chattels taken in execution, or the proceeds or value thereof, shall be decided against the claimant, the costs of the bailiff allowed by the judge shall be retained by him out of the amount levied, if the judge shall so order, but without prejudice to the right of the execution creditor against the claimant for the sum so retained, if the judge shall order the same to be paid by the claimant to the execution creditor.

Judgment Summons.

RULE 144.—When an application is made by a judgment creditor for the issue of a judgment summons, the applicant shall be asked to state the ground or grounds upon which he relies to obtain the committal of the judgment debtor, and after the registrar shall have struck from the form of application for the summons in the Schedule all the grounds therein mentioned, upon which the applicant does not rely, the form shall be handed to the applicant, and he shall be required to read and sign the same; and where the ground relied on is not that the judgment debtor has had since the

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judgment the means and ability to satisfy the judgment, then the undertaking in reference to such ground shall be struck out.

RULE 145.—Every judgment summons shall be supported by affidavit, and shall be issued six clear days at least before the day on which the judgment debtor is required to appear to it, unless the person entering the summons shall at the time of issuing it inform the registrar that the plaintiff will be prepared at the hearing to prove one of the facts mentioned in the following rule, as grounds for short service.

RULE 146.—A judgment summons can issue at any time, without leave of the court, except in the case provided for in Rule 132, and shall be forthwith delivered by the registrar to the bailiff or to the plaintiff's attorney for service by a bailiff or by the attorney or by a clerk in the permanent employ of such attorney, and shall be served personally not less than five clear days before the day on which the party is required to appear to such summons, unless at the hearing the judge is satisfied, on the evidence on oath before him, that such party was about to remove from his dwelling or place of business, or was keeping out of the way to avoid service, in either of which cases service upon the party at any time before the time appointed for the appearance of such party shall be sufficient.

RULE 147.—The hearing of judgment summonses may be adjourned from time to time.

RULE 148.—Upon the issue of a judgment summons against a party the bailiff shall return into court any warrant of execution against the goods of such party which may have been issued upon a judgment in the cause.

Commitment.

RULE 149.—In cases of commitment upon judgment summons, the amount remaining due or ordered to be paid on the judgment, and all costs payable by the defendant, shall be indorsed on the warrant, and the period of imprisonment named in the order shall be inserted therein and indorsed thereon.

RULE 150.—When a warrant of commitment for non-payment of money is issued, the defendant may, at any time before his body is delivered into the custody of the gaoler, pay to the bailiff the amount indorsed on the warrant as that, on the payment of which, he may be discharged; and on receiving such amount the bailiff shall discharge the defendant [and shall within twenty-four hours, if possible, and if not then within three days after receiving such amount pay over the same to the registrar].

INFANTS.

Infant Plaintiffs.

RULE 151.—Where an infant applies to enter a plaint for any cause of action (other than for wages or piece-work, or for work as a servant) he shall procure the attendance of a next friend, at the office of the registrar, at the time of entering the plaint; and no plaint shall be entered until the next friend has undertaken, in the

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form set forth in the Schedule, to be responsible for costs, who, on entering into such undertaking, shall be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary action; and the cause shall proceed in the name of the infant by such next friend, and the undertaking shall be filed by the registrar; but no order of the court shall be necessary for the appointment of such next friend. If the plaintiff fail in, or discontinue, his suit, and do not pay the amount of costs awarded by the court to be paid by him to the defendant, proceedings may be taken for the recovery of such amount from the next friend as for the recovery of any debt ordered to be paid by the court.

Infant Defendants.

RULE 152.—Where an infant defendant appears at the hearing, and names a person willing to act as guardian, and who then assents so to act, such person shall be appointed guardian accordingly; but if the defendant do not name a guardian, the judge may appoint any person in court willing to become guardian, or in default of such person the judge shall appoint the registrar of the court to be guardian, and the cause shall proceed thereupon as if another person had been appointed guardian, and the name of the guardian appointed shall be entered in the register, with statement whether guardian appointed at the instance of the court or not; and no responsibility shall attach to the person so appointed guardian at the instance of the court.

Proceedings by and against Executors and Administrators.

RULE 153.—In actions by executors or administrators, if the plaintiff fail, the costs shall, unless the court shall otherwise order, be awarded in favor of the defendant, and shall be levied *de bonis propriis.*

RULE 154.—Where an executor or administrator, plaintiff or defendant, shall not appear on the day of hearing, the provisions of sections 68 and 69, 70 and 71, of the Act shall apply respectively, subject to the rules applicable to executors or administrators suing or sued.

RULE 155.—A party suing an executor or administrator may charge in the plaint summons that the defendant has had assets and has wasted them.

RULE 156.—In all cases where the defendant is so charged in the summons, if the court shall be of opinion that the defendant has wasted the assets, the judgment shall be, that the debt or damage and costs shall be levied *de bonis testatoris, si,* etc., *et si non, de bonis propriis;* and the non-payment of the amount of the demand immediately on the court finding such demand to be correct, and that the defendant is chargeable in respect of assets, shall be conclusive evidence of wasting to the amount with which he is so chargeable.

RULE 157.—Where a defendant, sued as an executor or administrator, does not appear, or where the defendant appearing denies his representative character, or alleges a release to himself of the demand, whether he insists on any other ground of defence or not, if the judgment of the court be in favor of the plaintiff, the judgment

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shall be that the amount found to be due and costs shall be levied *de bonis testatoris, si*, etc., *et si non, de bonis propriis.*

RULE 158.—Where a defendant sued as an executor or administrator admits his representative character, and only denies the demand, if the plaintiff prove it, the judgment shall be that the demand and costs shall be levied *de bonis testatoris, si*, etc., *et si non* as to the costs, *de bonis propriis.*

RULE 159.—Where such defendant admits his representative character, but denies the demand, and alleges a total or partial administration of assets, and the plaintiff proves his demand, and the defendant proves the administration alleged, the judgment shall be to levy the costs of proving the demand *de bonis testatoris, si*, etc., *et si non, de bonis propriis;* and as to the whole or residue of the demand, judgment of assets, *quando acciderint;* and the plaintiff shall pay the defendant's costs of proving the administration of assets.

RULE 160.—Where such defendant admits his representative character, but denies the demand, and alleges a total or partial administration of assets, and the plaintiff proves his demand, but the defendant does *not* prove the administration alleged, the judgment shall be to levy the amount of the demand, if such amount of assets is shown to have come to the hands of the defendant, or such amount as is shown to have come to them, and costs, *de bonis testatoris, si*, etc., *et si non*, as to the costs, *de bonis propriis*, and as to the residue of the demand, if any, judgment of assets, *quando acciderint.*

RULE 161.—Where such defendant admits his representative character and the plaintiff's demand, but alleges a total or partial administration of the assets, and proves the administration alleged, the judgment shall be for assets *quando acciderint*, and the plaintiff shall pay the defendant's costs of proving the administration of assets.

RULE 162.—Where such defendant admits his representative character and the plaintiff's demand, but alleges a total or partial administration of the assets, but does *not* prove the administration alleged, and has not established any other ground of defence, the judgment shall be to levy the amount of the demand, if so much assets is shown to have come to the hands of the defendant, or such amount as is shown to have come to them, and costs, *de bonis testatoris, si*, etc., *et si non*, as to the costs, *de bonis propriis*, and as to the residue of the demand, if any, judgment of assets, *quando acciderint.*

RULE 163.—Where judgment has been given against an executor or administrator, that the amount be levied upon assets of the deceased *quando acciderint*, the plaintiff or his personal representative may issue a summons in the form set forth in the Schedule, and if it shall appear that assets have come to the hands of the executor or administrator since the judgment, the court may order that the debt, damages, and costs be levied *de bonis testatoris, si*, etc., *et si non*, as to the costs, *de bonis propriis;* provided that it shall be competent for the party applying to charge in the summons that the executor or administrator has wasted the assets of the testator

or intestate, in the same manner as in Rule 155, and the provision of Rule 156 shall apply to such inquiry; and the courts may, if it appear that the party charged has wasted the assets, direct a levy to be made as to the debt and costs, *de bonis testatoris, si*, etc., *et si non, de bonis propriis.* Rules. — 14 Sept. 1869.

RULE 164.—Where a defendant admits his representative character, and the plaintiff's demand, and that he is chargeable with any sum in respect of assets, he shall pay such sum into court, subject to the rules relating to payment into court in other cases.

RULE 165.—In actions against executors or administrators for which provision is not hereinbefore specially made, if the defendant fail as to any of his defences, the judgments shall be for the plaintiff as to his costs of disproving such defence, and such costs shall be levied *de bonis testatoris, si*, etc., *et si non, de bonis propriis.*

ORDER IV.

PROCEEDINGS IN EQUITY.

Commencement of Suit by Plaint and Plaint Summons.

RULE 1.—All suits in equity under the 1st, 2nd, 3rd, 4th, or 7th clauses (or paragraphs) of section 100 of the Act shall be commenced by plaint, an entry of which shall be made by the registrar in the register, Part II., *the application of the person desirous to bring the suit, or of a practitioner on his behalf, and the entry in such register shall contain the date of the entry, the names, and last known places of abode of the parties, and when any party sues or is sued in a representative character he shall be so described, and the nature of the suit, and in general terms the nature of the relief sought. Entry of plaint. * *Sic*, "upon."

RULE 2.—The plaint in equity required by the last preceding rule shall consist of a simple and compendious statement of the material facts and circumstances on which the plaintiff relies, being divided into separate paragraphs, numbered consecutively, each containing, as near as may be, a distinct allegation (examples of which are given in the Schedule hereto), and shall ask for the specific relief to which the plaintiff conceives himself entitled, and also for general relief; and such plaint shall be written or printed, or partly written and partly printed, in a summons, bearing the number of the plaint, and hereinafter referred to as the plaint summons; and such plaint and summons shall be in the form or to the effect of those in the Schedule to this order, according as the circumstances of the case may require. Plaint summons.

RULE 3.—The preceding rules, excepting those as to ejectment and special summonses, under section 56 of Act, as to the issuing and the return day of the plaint summons, the service of it, the filing of it, as to misnomer or other inaccurate description in it, as to substituted service, and as to the plaint note, shall apply to all suits in equity commenced under the two last preceding rules.

Parties.

RULE 4.—Any one or more of the persons or parties hereinafter mentioned may commence a suit on behalf of himself or themselves, Supreme Court Rules 1854, *ante*, p. 2723.

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and all others having a common interest with him or them, and proceed to obtain a decree of the court; and it shall not be competent to any defendant in any suit to object to the omission of such others as parties in any of such cases:—

1. Any heir, devisee, or legatee, or any creditor seeking to obtain administration of the real or personal estate, or both, of a deceased person.
2. Any one of several "*cestuisque* trusts" seeking an execution of the trusts in any deed or instrument.
3. Any one executor, administrator, or trustee seeking an administration of an estate or execution of trusts against any one legatee, next of kin, or "*cestuisque* trust."
4. Any one of several persons seeking protection of property pending litigation or exposed to waste.

And in any such case the court or a judge may, before, at, or after the hearing, order that any other person necessary to the suit be made a party, and make such order for placing the original and added parties on the same footing, with regard to costs, as the court or judge may deem fit: Provided that in order to prevent multiplicity of suits all persons who, but for these rules, would be necessary parties to the suit shall be served with notice of the decree, and after such notice such person shall be bound by the proceedings as if they had been originally parties to the suit, and they may, by leave obtained from a judge on summons, attend the proceedings under the decree, or apply to the court that such decree be added to, varied, or altered.

RULE 5.—In suits to execute the trusts of a will it shall not be necessary to make the heir-at-law party, unless the plaintiff desires to have the plaint established against him.

RULE 6.—In all cases in which a plaintiff has a joint and several demand against several persons, either as principals or sureties, it shall not be necessary to bring before the court as parties to the suit concerning such demand all the persons liable thereto, but the plaintiff may proceed against any one or more of the parties severally liable.

RULE 7.—In all suits concerning real or personal estates vested in trustees under a will, settlement, or otherwise, such trustees shall represent the parties beneficially interested in the same manner and to the same extent as executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estates, and in such cases it shall not be necessary to make the persons beneficially interested under the trusts parties to the suit: Provided that in any such case the court or judge may before, at, or after the hearing order any or all of such persons to be made parties.

Want of parties.

RULE 8.—If any defendant shall consider that the suit is defective by reason of the absence of any party, he may, within six clear days after he shall have been served with the plaint summons, serve a notice on the plaintiff requiring him to show cause before a judge of the court in which such suit shall be pending why such person should not be made a party to the suit, and the judge shall have power to direct that such person shall be made a party to such suit, by amendment, on such terms as the judge shall think proper.

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Misjoinder.

RULE 9.—No suit shall be dismissed on the ground of any misjoinder; but if the court at the hearing or re-hearing of the suit shall deem that no injustice would be thereby done to any of the parties, it shall, in the case of a misjoinder of a plaintiff, forthwith order all such amendments to be made as shall be necessary to rectify such misjoinder; and in the case of a misjoinder of a defendant, the court shall dismiss the suit as against such defendant upon such terms as it shall think proper.

Defect of parties.

RULE 10.—In case of a defect of parties the court may cause such defect to be amended upon such terms as it shall think proper.

[And see *post*, rule "*Absent parties*," following Rules under title "*Carrying out Decretal Order.*"]

Proceedings after Service.

Admission.

RULE 11.—Where any defendant desires to admit the truth of the allegations in the plaint, and to submit to the judgment of the court, he may, at any time before the return day of the original summons, in the presence of a registrar of a county court, or in the presence of an assistant registrar or of a practitioner, sign an admission in the form contained in the Schedule; and the signature of the defendant thereto shall be verified by affidavit, unless signed in the presence of the registrar or assistant registrar of the court in which the suit is pending.

Notice of admission.

RULE 12.—The admission shall be delivered to the registrar, together with a copy thereof for each of the plaintiffs, or, where the plaint is filed by a practitioner, with a copy for such practitioner only; and the registrar shall forthwith file the same, and transmit a copy by post to each plaintiff, or the practitioner, as the case may be; and after the receipt of such copy the plaintiff shall be entitled to the costs then already incurred, and to the further costs of attending the court and obtaining the decree or order to be made upon such admission, but to no other costs.

Statement in the nature of a disclaimer or answer may be filed by defendant.

RULE 13.—The defendant may, within ten clear days after the service of the summons, by a statement in writing signed by him, disclaim any interest in the subject matter of the suit, or admit or deny any of the statements in the plaint, or raise any question of law on such statements without admitting the truth thereof; or he may state concisely any new fact or document upon which he intends to rely as a defence at the hearing, or which he thinks advisable to bring to the notice of the court: Provided always, that in exercising his discretion as to costs, the judge shall consider the fact of a defendant having or not having availed himself of the powers given by this rule.

Statement to be filed.

RULE 14.—The statement under the last foregoing rule shall be delivered to the registrar, together with a copy thereof for each of the plaintiffs, or where the plaint is filed by a practitioner, with a copy for such practitioner only; and the registrar shall forthwith file the same, and transmit a copy by post to each plaintiff or the practitioner, as the case may be.

Statement filed by attorney.

RULE 15.—Where the statement is filed by a practitioner he shall indorse thereon his name and place of business, and that the defendant defends by him; and where it is not filed by a practitioner

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the defendant who actually files the same shall indorse thereon his name and address.

Dismissal of suit.

RULE 16.—The plaintiff may, at any time before the return day of the summons, by notice in writing delivered at the office of the registrar, require the plaint to be dismissed as against all or any of the defendants, with costs, without prejudice to further proceedings or suits, and such notice shall operate as an order to dismiss accordingly; and the registrar shall forthwith file such notice, and forward a copy thereof by post or otherwise to each of the defendants, who shall be thereupon entitled to execution for their costs, the amount of costs to be fixed by the registrar.(a)

Evidence.

Evidence *viva voce* to be taken.

RULE 17.—Except where otherwise provided by these orders, the evidence of witnesses shall be taken *vivâ voce* on oath, and such evidence of each witness as shall be deemed by the judge to be material shall be taken down in writing by the judge.

As to admission of documents.

RULE 18.—Where a party desires to give in evidence any document, he may, not less than five clear days before the hearing, give notice to any other party in the cause who is competent to make admissions, requiring him to inspect and admit such document; and if such other party shall not within a reasonable time make such admission, any expense of proving the same at the hearing shall be paid by him, whatever be the result of the cause, unless the court shall otherwise order; and no costs of proving any document shall be allowed unless such notice shall be given, except in cases where, in the opinion of the judge, the omission to give such notice has been a saving of expense.

Inspection of documents in possession or control of an opposite party.

RULE 19.—Where a party desires to inspect any document in the possession or under the control of any other party, he may, not less than five clear days before the hearing, give notice to such other party that he or his practitioner desires to inspect the same at any place to be appointed by such other party; and if such other party shall not appoint a convenient place, or allow the party giving such notice, or his practitioner, to inspect such document within three clear days after receiving such notice, the judge may adjourn the hearing, and make such order as to costs as he shall think fit.

Summons to witness.

RULE 20.—Where a party requires the attendance of any other party, or of any witness, either to give evidence or to produce documents, he shall apply to the registrar to issue a summons requiring such other party or witness to attend the court, the judge, or the registrar, as the case may be, or to attend and produce documents; and such summonses shall respectively be drawn up by the registrar, be signed and sealed by him, and be issued by him to the bailiff, or to the party, for service, and the same shall be served in the same manner as a plaint summons; and in every summons to produce documents the registrar shall insert a description of the documents required.

(a) For rule requiring defendant to state his defence at close of plaintiff's case, see post-title "*Hearing*" rule.

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Compulsory production of documents by parties to suit.

RULE 21.—Where a party served with a summons under the last rule shall not at the hearing produce the documents required, the court or the judge may, upon admission or proof of the service of such summons within a reasonable time, and that such documents are in the possession of the party so served, and that they relate to the matter then pending before the court, the judge, or the registrar, as the case may be, make an order for their production by him, and the court or judge may deal with them, when so produced, and with all costs occasioned by their non-production, as may appear just: Provided that nothing herein shall prevent the court, the judge, or the registrar from receiving secondary evidence of any document of which notice to produce has been given.

Documents unobjected to received without formal proof.

RULE 22.—Where any documents are produced to the court from proper custody, they will be read without further proof, if they appear genuine, and if no objection be taken thereto; and if the admission of any document so produced be objected to, the judge may adjourn the hearing for the proof of the documents, and the party objecting shall pay the costs caused by such objection, in case the documents shall afterwards be proved, unless the judge shall otherwise order.

Examination *de bene esse*.

RULE 23.—Where it shall be necessary to examine a witness *de bene esse*, application upon affidavit shall be made to the judge to appoint an examiner for that purpose.

How examination conducted.

RULE 24.—Where any witness is examined by a registrar he shall be examined on oath, and the registrar shall transcribe the answers of such witness, and the deposition shall be subscribed by the witness and the registrar who shall have so examined him, and shall then be transmitted by post to the registrar of the court in which the suit or proceeding is pending.

Allowance to witnesses.

RULE 25.—The allowance to be made to witnesses for attendance either before the court or registrar shall in no case exceed the highest rate of the allowance in actions under Part II. of Act.

Hearing.

RULE 26.—Whenever the judge shall exercise the powers conferred by section 112 of the Act, of removing to or from any other county court of which he is judge any suit the registrar shall give notice, by the post, to all the parties of such removal, and shall make an entry of the order in the register; and the subsequent proceedings in the suit so removed shall be taken and issue from the court to which the cause has been so removed until the judge shall otherwise order.

How parties to come prepared.

RULE 27.—Upon the day on which the summons is returnable all parties shall come to the court prepared, so far as the nature of the case will admit, with evidence to enable the judge to try the whole matter of the suit upon the merits, and then to determine the same by a final decree, or to make such decretal order, or give such directions for adding parties to the suit, for making inquiries, taking accounts, realizing assets, or doing any act which the judge may consider necessary to enable him to make a final decree upon a day to which the hearing may be adjourned.

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Hearing.

RULE 28.—At the close of the opening of the plaintiff's case, and before any evidence is taken, the defendant shall, if called upon by the judge to do so, by himself or the practitioner appearing for him, give a concise statement of his defence to the suit, and of the points upon which he relies, and he shall not, except by leave of the judge, be at liberty to enter upon or to give evidence as to any other matters than those included in the defence and points so stated.

Decree or decretal order.

RULE 29.—Upon the hearing the court may dismiss the suit, or grant the relief asked by the plaint, or any part thereof, or may grant any other relief consistent with the case made by the plaint or amended plaint, or make any order giving directions for, or with respect to, the prosecution of the suit, either at the same or at any other court under section 112 of the Act, as the circumstances of the case may require, and also make such order as to costs as the court may think fit.

Jury.

RULE 30.—Where the court shall order any question of fact, or any question as to the amount of damages, to be tried by a jury, the court shall adjourn the hearing, and appoint a day for the trial of such question by a jury; and thereupon the practice shall be in all respects the same as in actions where either party has required a jury, including the power to direct a new trial when necessary.

Record for trial.

RULE 31.—Where the court shall order any question of fact, or any question as to the amount of damages, to be tried by a jury, the judge shall reduce the question into writing, and the same shall be called the "Record for Trial."

Decretal Orders.

Registrar to draw order.

RULE 32.—Where the court makes any decretal order, the registrar shall, as soon thereafter as conveniently may be, draw up, seal, and file such order.

Preparation of a deed.

RULE 33.—Where a decretal order directs any deed to be prepared and executed, it shall state by what party the said deed shall be prepared, and to whom it shall be submitted for approval.

Receiver.

RULE 34.—Where upon the hearing it appears to the court expedient that a receiver be appointed, such appointment shall be made by the decretal order, whether the same be asked as part of the relief in the plaint or not.

Sale of real property.

RULE 35.—Where real property is ordered to be sold, the decretal order shall direct who shall have the conduct of the sale, and by whom the conditions and contracts of sale, and the abstract of title, shall be prepared. And where any conditions or contracts are ordered to be settled by a conveyancing counsel, it shall name the counsel to whom they are to be submitted.

Sale of personal property.

RULE 36.—Where a decretal order directs any personal property to be sold, the same shall be sold under the superintendence of the bailiff, by public auction, unless the court shall otherwise order.

Accounts or inquiries.

RULE 37.—Where any decretal order directs any accounts or inquiries to be taken or made, or any acts to be done, by the registrar, bailiff, receiver, or parties, it shall name a day within which all such acts shall be done, and accounts and inquiries completed, and shall also name a day, not less than fourteen clear days after that

day, on which the registrar shall certify the result of the accounts and inquiries, and what has been done under such decretal order, and on which the cause will be further heard, and, if practicable, a final decree made. But the court or judge may enlarge the time under this rule. Rules. — 14 Sept. 1869.

Carrying out of Decretal Order.

Deed how settled.

RULE 38.—Where a deed is ordered to be prepared, and the parties cannot agree upon the form thereof, the judge may, upon the application of either party, settle the same himself, or name a conveyancing counsel by whom the same shall be settled, subject to the final approval of the judge.

In taking accounts, &c., registrar to act as Master in Equity.

RULE 39.—Where a decretal order directs that any account be taken or inquiry made, such account shall be taken and inquiry made by the registrar unless the decretal order shall direct the same to be taken before the court or the judge, and the registrar shall for that purpose have all the powers and discharge all the duties of the Master in Equity; and all parties prosecuting any accounts or inquiries shall have the same power of summoning witnesses, including as witnesses any parties in the cause, and of examining them on such accounts or inquiries, and of compelling the production of documents, as they had on the original hearing; and all rules as to the summoning, swearing, and examining of witnesses, and the production of documents at the hearing, shall be applicable (as far as may be) to such summoning, swearing, examining, and production on taking any such accounts, or prosecuting any such inquiries.

In taking accounts, account books to be *primâ facie* evidence of the matters therein contained.

RULE 40.—Where a decretal order directs accounts to be taken, any books of account in which the accounts required to be taken, or any of them, have been kept, shall, unless the judge shall otherwise direct, be taken as *primâ facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised.

Advertisement for creditors, &c.

RULE 41.—Every advertisement for creditors or other persons having any claim upon or interest in the distribution of any assets to be administered by the court, which shall be issued pursuant to any decretal order, shall direct every such creditor or other person, by a time to be thereby limited, to send to the registrar his name and address, and the full particulars of his claim or interest, and a statement of his account, and the nature of the security (if any) held by him, and at the time of directing such advertisement a time shall be fixed for adjudicating on the claims.

Creditors need not attend without notice.

RULE 42.—Every such claim shall be accompanied by an affidavit in support of such claim, but no such creditor or other person need make any affidavit, or attend in support of his claim, unless he is served with a notice requiring him to do so, as hereinafter provided.

Securities, deeds, and documents to be produced to registrar.

RULE 43.—Every creditor shall produce or transmit to the registrar any security held by him, at such time as shall be specified in the advertisement for that purpose, being the time appointed for adjudicating on the claims; and every creditor shall, if required, by notice in writing to be given by the registrar, produce or transmit to the registrar all other deeds and documents necessary to sub-

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stantiate his claim before the registrar at his office at such time as shall be specified in such notice.

RULE 44.—Every person claiming as heir-at-law, devisee, next of kin, or legatee shall, if required, by notice in writing to be given by the registrar, produce or transmit to the registrar any pedigree or proof mentioned in such notice within such time as shall be therein specified.

Pedigree or proof to be produced to registrar.

Costs, when not allowed.

RULE 45.—In case any creditor or other person shall neglect or refuse to comply with the two last preceding rules, he shall not be allowed any costs of proving his claim unless the judge or the registrar shall otherwise direct.

Proof of debts or claims.

RULE 46.—At the time appointed for adjudication upon the debts or claims, the judge or the registrar, as the case may be, shall take the evidence of the executor, administrator, or other accounting party upon such debts or claims, and may thereupon, in his discretion, allow any of such debts or claims without further proof, and may direct such investigation of all or any of the debts or claims not allowed, and require such further particulars, information, or evidence relating thereto as he may think fit, and may, if he so think fit, require any creditor or other person to attend and prove his claim, or any part thereof; and the adjudication on such claims as are not then allowed shall be adjourned to a time to be then fixed.

Notice of allowance.

RULE 47.—Notice of allowance shall be given by the registrar to every creditor or other person whose claim, or any part thereof, has been allowed, and notice shall also be given by him to every such creditor or other person as he shall think fit, or as he may be directed by the judge to do, to attend and prove his claim or such part thereof as is not allowed, by a time to be named in such notice, not being less than seven clear days after such notice, and to attend at a time to be therein named, being the time to which the adjudication thereon shall have been adjourned; and in case any such creditor shall not comply with such notice, his claim, or such part thereof as aforesaid, shall be disallowed.

Claims not before made.

RULE 48.—Any such creditor or other person who has not before sent in the particulars of his claim pursuant to the advertisement may do so two days previous to any day to which the adjudication is adjourned.

Claims too late.

RULE 49.—If any claim be sent in after the time fixed by the advertisement (except as before provided in case of an adjournment) the judge or registrar may, upon special application, entertain the same, upon such terms and conditions as to costs and otherwise as he thinks fit.

Allowances.

RULE 50.—In taking any account directed by any decretal order, all just allowances shall be made without any directions for that purpose in such order.

Application to judge for further directions *sua motu*.

RULE 51.—Where the registrar, bailiff, receiver, or any party has by any decretal order been directed to do any act for doing which it may be found necessary to have further directions or an order of the court, the registrar shall apply to the judge for such direction or order, and upon such application the judge may give such direction or make such order as he may think fit, or may appoint

a time to hear all parties upon the application so made by the registrar; and if the judge shall make such appointment for hearing, the same shall operate as a stay of proceedings in the suit until the day so appointed, if he shall so direct. Rules. — 14 Sept. 1869.

Absent Parties.

RULE 52.—Where any matter is referred to the court or judge, or to the registrar by a decretal order, the court judge or registrar, as the case may be, shall, as soon as conveniently may be, ascertain if there are any parties who, if the decretal order had been made in a suit pending in the Supreme Court, ought to be served with notice. Inquiry as to parties.

RULE 53.—Where it shall be necessary to serve any parties with the notice mentioned in the foregoing rule, the same shall be prepared by the registrar, and signed and sealed by him, and issued by him to the bailiff, who shall serve the same, and upon such notice the party served therewith may attend the proceedings under the decretal order. Notice to parties.

RULE 54.—Any party who shall be served with a notice under the last foregoing rule may apply to the court at the next sitting, or by leave of the judge at any subsequent sitting, to vary or add to the decretal order. Application to vary or add to decretal order.

Registrar's Certificate.

RULE 55.—Where a registrar has been ordered to certify to the court upon any matter, he shall present to the court a certificate in writing signed by him. Registrar's certificate.

RULE 56.—The registrar shall prepare his certificate seven days before the day appointed for presenting the same, and shall give notice by post to all parties to the suit that the same lies in his office for the inspection of any parties interested therein or affected thereby; and he shall deliver a copy thereof to any person requiring the same, upon payment of the costs of such copy. Registrar's certificate to lie in office.

RULE 57.—Where any party interested in, or affected by, the registrar's certificate desires to have the same varied, he shall apply by himself, or the practitioner engaged on his behalf, at the court on the day appointed for presenting the same, and the judge shall thereupon hear and determine such application, and shall confirm or vary the certificate, and make such further order thereupon as he may think fit. Variation of registrar's certificate.

RULE 58.—If no application shall be made to vary the certificate, it shall be taken as confirmed, unless the judge shall otherwise order. Confirmation of certificate.

Final Decree.

RULE 59.—When the court has determined all the questions raised between the parties, the registrar shall, as soon thereafter as conveniently may be, draw up a final decree in accordance with the judgment of the court, and seal and file the same. Final decree.

Revivor and Supplement.

RULE 60.—Upon any suit becoming abated by death, marriage, or otherwise, or defective in consequence of any change or transmis- Order under.

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sion of interest or liability, the judge shall, on application of any person having a right so to apply, make an order reviving the said suit, or such supplementary decree or order as may have become necessary in consequence of any such matters as aforesaid.

Order to be served.

RULE 61.—An order under the foregoing rule shall be drawn up by the registrar and sealed with the seal of the court, and issued to the bailiff, who shall serve the same upon such person or persons as the court shall direct.

Person served to be bound thereby, and may appeal.

RULE 62.—After service of such order, the suit shall, as between the party by whom the order has been obtained and the party on whom it has been served, be in the same plight and condition as it was in before it had become abated or defective as aforesaid; provided that the person so served may move the court at the next sitting, or by leave of the judge at any subsequent sitting, to discharge such order, and such motion shall be made upon affidavit of the facts relied upon to support the same.

PROCEEDINGS UNDER THE 5TH, 6TH, AND 8TH CLAUSES OF SECTION 100 OF THE ACT, AND SECTION 106 OF ACT.

Petition.

RULE 63.—All proceedings under the 5th and 6th clauses of section 100 of the Act shall be by petition, and such petition need not show title except so far as is provided by the rules in this order.

Petitions by trustees.

RULE 64.—Where a trustee petitions under the said 5th clause for an order in any matter relating to the trust, he shall file his petition at the office of the registrar, and leave thereat as many copies thereof as there are persons beneficially interested in the due execution of the trust, and he shall state in such petition his own name, address, and description, and also the names, addresses, and descriptions of the persons beneficially interested, so far as he is able, and the nature of the trust, and how created, the property or money to which the same relates, and the substance of the order which he seeks to obtain.

Petition by guardian or trustee of infant or next friend.

RULE 65.—Where any guardian or trustee of any infant petitions for an order relating to the maintenance or advancement of such infant he shall file his petition at the office of the registrar, and where any person, as next friend of an infant, petitions on behalf of such infant for an order upon or against the guardian or trustee of such infant, he shall file his petition at the office of the registrar, and leave thereat as many copies thereof as there are guardians or trustees. And in such petition shall be stated the names, addresses, and descriptions of the petitioner, and of all the persons to whom such order is intended to relate, and shall also state the nature of the guardianship or trust, and how created, of the property to which the trust relates, and the substance of the order which the petitioner seeks to obtain.

Application for injunction.

RULE 66.—Where any person intends to apply under the 8th clause of the section 100 of the Act, for an order in the nature of an injunction (except as is provided in the following rules under the head of "*Ex parte Applications*"), he shall deliver at the office of the registrar a notice of his intention to apply for the same, together with as many copies thereof as there are persons upon or against whom such order is intended to be obtained, and he shall state in

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such notice his own name, addresses, and description, and, so far as he can, the names, addresses, and descriptions of all such persons, and also the substance of the order which the petitioner seeks to obtain.

Sec. 106 of Act.

RULE 67.—Any person desiring to pay money, transfer stock, or deposit security in trust to attend the orders of any county court, under section 106 of the Act, shall file with the registrar of the county court having jurisdiction in the matter an affidavit, entitled in the matter of the Act, and of the particular trust, and setting forth:

1. His own name, address, and description:
2. The place where he is to be served with any petition or summons, or any notice of any proceeding or order of the court relating to the trust fund:
3. The amount of money, stock, or security which he proposes to pay, transfer, or deposit in trust to attend the orders of the court:
4. A short description of the trust or of the instrument creating it:
5. The names, addresses, and descriptions of the persons interested in or entitled to, or claiming to be interested in or entitled to, the fund, to the best of the knowledge and belief of the trustee:
6. The submission of the trustee to answer all such inquiries relating to the application of the money or stock paid in or transferred or security deposited as the court may think proper to make or direct.

Form of affidavit.

RULE 68.—The affidavit may be in the form set out in the Schedule to these orders, with such variations as each particular case may require.

Indorsement on affidavit.

RULE 69.—Immediately on the receipt by the registrar of the affidavit, he shall indorse thereon a memorandum of the day on which the same was received by him, and when such affidavit shall be so indorsed, it shall be taken for all purposes to have been duly filed on the date so indorsed thereon.

Certificate of registrar.

RULE 70.—The persons filing the affidavit, or any of them, may apply to the registrar to give to them a certificate entitled in the matter of the Act and of the particular trust, and under the seal of the court, certifying that the affidavit has been filed, and such certificate may be in the form set out in the Schedule to these orders, with such variation as each particular case may require.

Payment of money.

RULE 71.—In the case of money, the persons filing the affidavit, or any of them, may, upon the receipt of the before-mentioned certificate, pay the money into a post office savings bank or a chartered or incorporated banking company to be named by the registrar (in the town in which the county court is held) under section 106 of the Act, and obtain from the officer of the bank a *receipt for the same*, and shall forthwith leave the said receipt with the registrar, who shall give him an acknowledgment for the same in the form in the Schedule, and the registrar shall accordingly indorse thereupon a memorandum of the day on which the same was received by him, and when such receipt shall be so indorsed, it

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shall be taken for all purposes to have been duly recorded on the date so indorsed thereon.

Transfer of stock.

RULE 72.—In the case of stocks, the persons filing the affidavit, or any of them, may, upon the receipt of the before-mentioned certificate, transfer the stocks into the names of the registrar of the county court mentioned in the said certificate, in trust to attend the orders of the court, and shall forthwith leave the transfer ticket with the registrar, and the registrar shall immediately indorse thereon a memorandum of the day on which the same was received by him, and when such transfer ticket shall be so indorsed, it shall be taken for all purposes to have been duly recorded on the day so indorsed thereon.

Deposit of security.

RULE 73.—In the case of security the person filing the affidavit may forthwith deposit the security with the registrar in the name of the registrar, in trust to attend the orders of the court, and the registrar shall immediately indorse on the affidavit a memorandum of the day on which the security was deposited with him.

Notice of to treasurer of deposit.

RULE 74.—The registrar shall, within twenty-four hours after the payment into the bank of the transfer of stock or of the deposit of the security, as the case may be, send notice thereof by post to the Minister and the Treasurer of Victoria, stating therein the particulars of the payment, transfer, or deposit, as the case may be, which notice may be in the form in the Schedule, with such variations each particular case may require.

Acknowledgment of payment.

RULE 75.—Immediately after the recording of the receipt or transfer ticket, or the deposit of the security, the registrar shall give to the persons paying in the said money, or transferring the said stocks or depositing the security, an acknowledgment or certificate of such payment, or transfer, or deposit, and such acknowledgment or certificate may be in the form set out in the Schedule to these rules, with such variations as each particular case may require.

Entries in books, &c.

RULE 76.—Immediately after the recording of the receipt or transfer ticket, or giving a certificate of deposit of security, the registrar shall cause the necessary entry to be made in the register, Part II., and also in the suitors' fund book, including the *title of the particular trust*, and the *amount of money or stock paid or transferred, or security deposited*, and the names and addresses of the *person or persons making such payment, transfer, or deposit*, and the names of every person stated in the affidavit to be, or to claim to be interested in or entitled to such money or stock, and their addresses and descriptions, as given in the affidavit; and the registrar shall forthwith, by post, send to each of such last-mentioned persons, to the addresses given in the affidavit, a notice of the said payment, transfer, or deposit, which notice shall be under seal of the court, and may be in the form set out in the Schedule to these rules, with such variations as each particular case may require.

Who may petition for order as to fund.

RULE 77.—Any person interested in or entitled to the fund, or (if need be, but not otherwise) the trustee, may apply by petition, respecting the investment, paying out, or distribution of the fund or income thereof, and the petition shall be filed at the office of the registrar; and the petitioner shall leave thereat, where the petition

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relates to the income only of the fund, as many copies thereof as there are trustees and persons, other than the petitioner, interested in the due execution of the trust so far as regards the income only, and in all other cases as many copies thereof as there are trustees and persons, other than the petitioner, interested in the due execution of the trust, and he shall state in such petition his own name, address, and description, and a place where he may be served with any petition or notice of any proceeding or order of the court, relating to the said fund, and also the names, addresses, and description of the other persons interested, so far as he is able, the nature of the trust, and how executed, the trust property, and the substance of the order which he seeks to obtain.

Notice to trustees.

RULE 78.—Unless the judge shall otherwise direct, the trustee shall be served with notice of every application made to the court respecting the fund or the income, by any person beneficially entitled thereto.

When trustee to pay costs.

RULE 79.—Where a trustee shall have availed himself of the provisions of section 106 of the Act without sufficient reason, the judge may direct such trustee to bear his own costs, and pay the costs of any other parties, or to bear and pay any part of such respective costs as the judge shall think fit.

Time of filing petitions and giving notices.

RULE 80.—Under this order petitions shall be filed, and notices shall be delivered at the office of the registrar seven days before the sitting of the court at which the petition is to be heard or application made.

Registrar to issue notices.

RULE 81.—The registrar, upon receiving any such petition or notice and the copies thereof, shall issue the copies under the seal of the court to the bailiff for service upon the respective persons to whom they are addressed, together with a notice, signed by himself, and under the seal of the court, informing them of the day and hour on which the petition or application will be heard, and that if they do not attend, either in person or by their attorneys or counsel, such order will be made and proceedings taken as the judge may think just and expedient.

Service of petitions and notices.

RULE 82.—The bailiff of the court shall, four clear days at least before the hearing, serve all copies of such petitions and notices.

Facts may be supported by affidavit.

RULE 83.—Upon the hearing of any petition or application under this order, unless the judge shall otherwise direct, the facts relied upon in support of or in opposition to such petition or application shall be proved by affidavit.

Registrar to draw up order.

RULE 84.—Where the judge makes an order upon such petition or application, the registrar shall, as soon thereafter as conveniently may be, draw up, seal, and file such order.

Orders as to suits to extend to proceedings.

RULE 85.—The preceding orders relating to suits shall, in all cases where they are applicable, be construed as extending to proceedings under this order.

Ex parte Applications.

Peremptory motions.

RULE 86.—Wherever in any suit or proceeding it shall become necessary to secure the possession of any property, or to obtain

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security from any person for any moneys in his possession, or to enforce the deposit or the payment into court thereof pending litigation, or the immediate sale of any goods or chattels, and the deposit or payment into court of the purchase-money thereof, or to obtain an order in the nature of an injunction, any party may apply *ex parte* to the judge, either in or out of court, upon affidavits setting forth the facts, rendering such order immediately necessary, and upon such application the judge may either make an order absolute in the first instance, or make an order to be absolute at any time to be ordered by him, unless cause be shown to the contrary, or may make such other order or give such directions in the matter as the judge may think fit, and may order immediate execution.

Orders, how drawn and executed.

RULE 87.—The order, when signed by the judge, shall be transmitted by the applicant to the registrar of the court in which the suit or proceeding is pending, who shall seal and file the same, and issue a copy thereof under the seal of the court to the bailiff for service, and execution shall be issued thereon, as by the order is directed.

Amendments.

Amendments.

RULE 88.—The judge may, at or during the hearing, and before a final decree or order be made in any suit or proceeding under the Act, exercise all powers of amendment mentioned in section 119 of the Act, and also all the powers and authorities of a judge of the Supreme Court sitting in equity, and the rules relating to amendment in actions shall apply, so far as they are applicable, to all suits and proceeding in equity.

[And see the preceding rules under head "*Parties.*"]

Rehearing.

Rehearing to be allowed on special grounds only.

RULE 89.—No decree or order once made shall be reheard unless in any case in which the judge, on special grounds, shall think such rehearing necessary, and then only on such terms as the judge may think just.

Enforcement of Decrees and Orders.

Service of decree or order.

RULE 90.—On the application of the party entitled to the benefit of the decree or order, the registrar shall issue to the bailiff a copy of such decree or order, under the seal of the court, with a notice to the party to be bound indorsed thereon, and the bailiff shall forthwith serve the same upon the party to whom such notice is addressed.

When execution may issue.

RULE 91.—No process shall issue to enforce any decree or order, unless by leave of the judge, until three days after a copy thereof, under the seal of the court, shall have been served upon the party to be bound thereby.

Warrant of *fi. fa.*

RULE 92.—Where any decree or order is made for the payment of money into court or by one party to another, the registrar shall, after the expiration of the time, if any, appointed by the decree or order for the payment thereof, and after the expiration of the time limited by this order, upon application by the person having the

conduct of the suit, or by the payee, issue to the bailiff of the court a warrant of execution, as provided by section 81 of the Act.

Warrant of possession or assistance.

RULE 93.—Where a decree or order made in any suit or proceeding for the delivery up to any person of lands or tenements, goods or chattels, either as owner thereof, or to be sold, or to be held in possession until an order is made as to the disposition thereof, the registrar shall, upon the application of the person entitled to such possession, issue to the bailiff either a warrant of possession or warrant of assistance, as the case may require.

Service of orders in the nature of an injunction.

RULE 94.—Where an order in the nature of an injunction has been made, whether made *ex parte* or not, the registrar shall, if the party by whom it was obtained desires to have the same served by his attorney, issue for service a copy of such order, under the seal of the court, to such party.

Where a person makes a breach of an order in the nature of an injunction, notice to be served upon him to show cause why he should not be committed.

RULE 95.—Where any breach of an order in the nature of an injunction shall have been made, the registrar shall, upon the application by the person having the conduct of the suit, issue to the bailiff, or to such person for service by his attorney, a notice, under the seal of the court, requiring the person who shall have been guilty of the breach of the said order to appear at a court, to be held on a day to be named therein, to show cause why he should not be committed for contempt for having disobeyed the said order.

Where a person neglects to obey a decree or order, notice to be served on him to show cause why he should not be committed.

RULE 96.—Where any person is required by any decree or order to pay money or do an act within a certain number of days after service of the copy of the decree or order, and such person shall not have paid such money or done such act within the time mentioned therein, the registrar shall, upon application by the person having the conduct of the suit, issue to the bailiff, or to such person for service by his attorney, a notice, under the seal of the court, requiring the person who shall have neglected to obey the decree or order to appear at a court, to be held on a day to be named therein, to show cause why he should not be committed for contempt in having neglected to obey such decree or order. Provided always, a party shall not, by proceeding under this rule, be precluded from enforcing the order by warrant of execution or any other process of the court.

Funds in Court.

Registrar's accounts to be audited.

RULE 97.—The accounts of a registrar in equitable proceedings shall be examined and audited in the same manner as his accounts in other proceedings are now or shall be examined and audited.

Payment into court.

RULE 98.—Where a party is directed to pay money into court he shall attend and pay the same into the office of the registrar before the hour of two o'clock in the afternoon, and on Saturdays before the hour of eleven in the forenoon, and obtain a receipt for the amount; and the registrar shall, unless otherwise ordered by the judge, pay the same into such bank as the judge shall direct.

Entry of payment into court and payment of interest.

RULE 99.—The registrar shall enter in the "suitors' cash book," and in the "suitors' fund book" all sums so paid to the account of the suit or matter in which it is paid.

Married women.

RULE 100.—Where any married woman is interested in any principal money, stocks, shares, or securities exceeding in value

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£200, or £10 in annual payments, she shall be examined by the judge apart from her husband, to ascertain whether the same shall be paid to him or made the subject matter of a settlement, but if she be under age the court shall order a proper settlement to be made.

Transfer of Proceedings to or from the Supreme Court.

Transfer to Supreme Court where subject matter exceeds the amount to which jurisdiction is given by Act.

RULE 101.—If during the progress of an inquiry under order of the court it shall be made to appear that the subject matter of the suit or proceeding exceeds the amount to which the jurisdiction of the court is limited, the registrar may proceed with the particular account or inquiry which is then before him, unless he thinks it inexpedient so to do, but he shall at the next sitting of the court present a certificate of the state of the suit and proceedings, and if the judge shall be of opinion that such excess exists, he shall make an order for the transfer of the suit or matter to the Supreme Court; and the registrar shall make and file with the record a copy of such certificate and order, and shall transmit the original, together with the order of the judge thereupon, under the seal of the court, by post or otherwise, to the office of the Master in Equity, or other office or officer as their Honors the Judges of the Supreme Court may by general order direct, and shall also send notice, by post or otherwise, of the fact, to all parties and persons entitled to be served with a copy of the decree.

Transfer from Supreme Court.

RULE 102.—Where any suit or proceeding is transferred under section 103 of the Act, to a county court, the plaintiff shall lodge with the registrar thereof the order of transfer, together with all original documents in the suit or proceeding in his possession, and also a statement of the names and addresses of the several parties to the suit, and their attorneys, and the defendant shall lodge all original documents in the suit or proceeding in his possession, and either party shall from time to time lodge office copies of any further documents the judge or registrar may require.

Indorsement.

RULE 103.—The registrar shall forthwith indorse on the order of transfer the date on which the same was lodged.

Registrar to apply to judge for instructions.

RULE 104.—When the order of transfer is lodged, the registrar shall forthwith apply to the judge for directions as to the further steps in the suit or proceeding, and thereupon the judge may give such directions for carrying on the suit or proceeding as he may think fit, or he may appoint a time to hear and determine any matters in such suit or proceeding, and direct the registrar to summon all parties to appear on the day so appointed. And the judge shall also, if he think fit, order the registrar to give notice to the parties to the suit or proceeding, or any of them, that the order of transfer has been lodged.

Special Duties of Registrar.

Summonses, &c., to be sealed.

RULE 105.—Before any summons, notice, or other document, or any copy thereof, shall be issued by the registrar, the same shall be sealed with the seal of the court.

Registrar to appoint time and place for inquiries and taking accounts.

RULE 106.—Where the registrar is required by any decretal order to make inquiries or to take accounts, he shall appoint some day, being not less than fifteen clear days from the date of such

order, to sit in his office or at the court to hear and determine all matters relating to such inquiry and accounts, and he shall forthwith prepare and insert advertisements in conformity with such order, stating the time, place, and purpose of such sitting, and shall insert the same ten days previous to such sitting.

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RULE 107.—Upon the day so appointed the registrar shall sit at the time and place appointed, and shall hear all parties interested, and the practitioners engaged in their behalf. Hearing before registrar.

RULE 108.—Where a registrar is not prepared to certify to the court on the day mentioned in the order he shall apply to the judge for an extension of time, and state the reason for making the application, and he shall give notice, by post or otherwise, to the parties of the enlargement of the time and of the day on which he is to certify. Further time for certificate.

RULE 109.—Whenever a notice for appeal is given, the registrar shall detain the proceeds of any execution which may then be in or may come into his hands pending such appeal, to abide the event of such appeal, unless the judge shall otherwise order. Registrar to retain money to abide result of appeal.

Special Duties of Bailiff.

RULE 110.—Where any personal property is directed to be sold by auction, the bailiff shall superintend the sale; and where the property is to be sold by private contract he shall carry out the directions of the court in respect of such sale. As to sale of personal property.

RULE 111.—Where a warrant shall direct the bailiff to take possession of, without selling or delivering to a party, any goods or chattels, he shall make or cause to be made an inventory or appraisement of the goods or chattels which he may take into his possession, and may, upon receiving as a deposit the amount of such appraisement or sufficient security, to be approved by the registrar, for the safe custody, and for the delivery up of possession upon request, of such goods and chattels, relinquish the possession thereof on condition that the same shall be re-delivered to him or held to abide the order of the court. Possession.

Duties of Receiver.

RULE 112.—Every receiver appointed by the court, other than the bailiff, shall give such security by bond to the registrar for the faithful discharge of his duties, and the payment over of money, as the court shall direct. Receiver to give security.

RULE 113.—The receiver shall submit to the registrar, and the registrar shall audit, the accounts of the receiver, which need not be in any particular form, as soon as conveniently may be after the receipt or realization of the assets, and immediately after such audit shall pay over to the registrar the balance found thereby to be in his hands. His accounts to be audited by registrar and when.

RULE 114.—The registrar may require any receiver to produce any receipt, accounts, and vouchers necessary for verifying the accounts, and may disallow any item not proved to his satisfaction, and may, if he shall think fit, require any receiver to verify such accounts and vouchers upon oath. To produce voucher and if required verify on oath.

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RULE 115.—The receiver shall, at any time before the complete realization of the assets, produce his accounts to be audited in manner provided by this order, upon receiving seven days' notice in writing from the registrar so to do, and such notice may be sent by post or otherwise to the address of the receiver.

To produce account for audit upon notice.

Audit once a year.

RULE 116.—Where the duties of the receiver are continuous, no longer period than one year shall in any case be allowed to intervene between each audit.

Parties need not attend audit.

RULE 117.—In no case shall it be necessary for any party to attend at the audit of the receiver's account; but where a party is dissatisfied with the receiver's account, he may apply to the court or registrar for a revision of the registrar's allowances.

Court may order income to be paid direct to parties.

RULE 118.—The court may order the receiver to pay over, at such time or from time to time as it shall see fit, to the party entitled to the beneficial interest therein, or to the guardian of any infant, any yearly or other accruing rents or interest instead of paying the same into court, and to take credit for such payments in his accounts when audited.

Practice.

Proceedings may be wholly or partly printed.

RULE 119.—All plaint summonses, petitions, statements, and documents whatsoever in any suits or matter under this order which are required to be filed should, for convenience of filing, be on foolscap paper, and may be wholly or partly printed or written, and dates and sums occurring therein may be expressed in figures.

Documents to be sealed.

RULE 120.—All judicial or official documents in any suit or proceeding, issued by the court, shall be stamped by the registrar with the seal of the court.

Service.

RULE 121.—Every document the mode of serving which is not specially defined by these rules, may be served, and the service thereof may be proved in conformity with the rule as to the service of summonses, excepting so far as the same relates to the time of service.

Change of attorney.

RULE 122.—Where any party to a suit or proceeding changes the practitioner he may have engaged, he shall give notice in writing of such change to the registrar, stating the name or firm and place of business of the new practitioner, and the registrar shall file the notice.

Setting down for hearing.

RULE 123.—On the entry of a plaint or filing of a petition, the registrar shall set down the suit or matter for hearing by, in the case of a plaint, making the plaint summons returnable on a day certain, and, in the case of a petition, inserting in the notice the day on which the matter is to be heard. But the suit or matter may be heard on any other day directed by the judge.

Days for equity sittings.

RULE 124.—The times of the sitting of a county court in matters of equity shall be those appointed for the transaction of the general business of the court, unless the judge shall otherwise order and shall appoint a special day or days for a sitting of the court in matters of equity.

Where Christian name unknown.

RULE 125.—Where any party to any suit or proceeding is unacquainted with the Christian name of any person whose name he

desires to insert in any plaint summons, proceeding, or document, he may describe such person by his surname or by his surname and the initial of his Christian name, or by such name as he is generally known by.

Copy of documents for use of judge.

RULE 126.—Where any proceedings or documents are filed an extra copy, in addition to the copies to be delivered under these orders, shall be left with the registrar for the use of the judge, *præcipes* and plaint summonses excepted.

Copies of proceedings to be forwarded to judge.

RULE 127.—The registrar shall, if so desired by the judge, transmit by post, prepaid, to the judge, five days before the sitting of the court, all copies of proceedings and documents left for his use under these rules.

Acts may be done by counsel or attorney.

RULE 128.—Where by these orders any act is to be or may be done by any party to a suit or proceeding, such act may be done either in person, or by his counsel, or by his attorney.

Substituted service.

RULE 129.—Where by reason of the absence of any party, or from any other sufficient cause, the service of any summons, notice, proceeding, or document cannot be made, or ought in the opinion of the judge to be dispensed with, the judge may wholly dispense with such service, or may, at his discretion, order any substituted service or notice by advertisement or otherwise in lieu of such service.

Judge to order in what newspapers advertisements to be inserted and costs thereof to be prepaid.

RULE 130.—The judge shall order in what newspaper any advertisements which may from time to time be ordered in any suit or proceeding shall be inserted; and when there is no fund in court applicable, the expense of such advertisement shall be paid to the registrar by the party requiring the same before they are inserted.

Conduct of suit.

RULE 131.—The judge may order what party shall have the conduct of any suit or proceeding, or any part thereof, and may rescind or alter such order, or make new orders in that behalf, from time to time, as he shall think fit.

Court may enlarge or abridge periods mentioned in these orders.

RULE 132.—The judge may, if he think fit, enlarge or abridge any of the times fixed by these orders for taking any step, or filing any document, or giving any notice, in any suit or proceeding.

Undertaking by next friend to pay costs.

RULE 133.—Before the name of any person shall be used in any suit or proceeding as next friend of an infant, married woman, or other party, such person shall sign an undertaking to be responsible for any costs for which the plaintiff or applicant may become liable in the course of the suit or proceeding, and such undertaking shall be annexed by the registrar to the plaint summons or petition.

Transfer of suits or proceedings from one court to another in certain cases.

RULE 134.—If suits or proceedings shall be commenced in different courts by parties in the same interest, such suits or proceedings shall be transferred to the court in which the first plaint or petition was filed, and shall there be proceeded with in the same way in all respects as if they had been commenced in that court.

Taxing costs.

RULE 135.—The registrar shall, if so ordered by the judge, tax costs, but in the absence of such order the judge shall tax costs.

Interest on debts.

RULE 136.—Creditors are to be entitled to interest in respect of debts as to such of them as carry interest after the rate they respectively carry, and as to all others after the rate of £5 per cent. per annum, from the date of the decretal order, and to costs of successfully proving such debts according to the scale of costs in that behalf.

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RULE 137.—Interest is to be computed on legacies after the rate of £5 per cent. per annum, from the end of one year from the date of the testator's death, unless otherwise ordered, or a different rate is directed by the will.

Interest on legacies.

RULE 138.—Any person who may be in custody may apply to the judge for his discharge therefrom, upon giving to the party at whose suit he was committed notice of his intention so to apply two days previous to his applying.

General practice rule.

RULE 139.—The rules and forms and practice in actions in the county courts shall, subject to the rules under this order, be adopted with reference to suits and proceedings in equity, so far as they shall be respectively applicable.

ORDER V.

APPEAL.

Preparation of Case.

RULE 1.—The party desirous of appealing in any action at law or suit in equity shall, so soon as he shall have taken the steps necessary under the Act to enable him to appeal, prepare the case for the appeal, which shall be in the form in the Schedule, and he shall deliver the same to the opposite party, or to the practitioner engaged on his behalf, and if there be several such parties appearing separately or by separate practitioners, then a copy to each of such parties or to each of the practitioners so engaged within fourteen days after the decision appealed from; and such parties, hereinafter called the respondent, shall return the case to the appellant indorsed as either agreed to or dissented from within fourteen days after the respondent shall have received the same.

Sec. 122.

RULE 2.—If the respondent do not return the case to the appellant within the time fixed by the last preceding rule, the appellant shall forthwith take out a summons, returnable before the judge, calling upon the respondent to show cause why he should not agree to the case, or why the judge should not treat the case as one upon which the parties cannot agree; and if the respondent upon the return of the summons shall not agree to the case so sent to him, and shall not satisfy the judge that he should be allowed further time for considering the case, the parties shall be considered to have disagreed, and a note to that effect shall be indorsed on the summons; and the respondent shall hand the case to the judge, who shall, so soon as he shall have settled the case, sign the same[a] with a statement thereon that the parties have disagreed, and it shall then be sealed by the registrar.

RULE 3.—If the judge, on perusing the case and the respondent's emendation, thinks fit, he may strike out the whole or any part of the statements of the case and evidence by both parties, and substitute copies of his own notes of the evidence, with such remarks (if any) upon the evidence and the demeanor and conduct of the

(a) The judge should sign the case, "I, the judge who tried this case," and not "I, A.B., &c."—*Guy* v. *Pierce*, 3 A.J.R., 39. See *Carroll* v. *Macgregor*, 5 A.J.R., 65.

witnesses in giving their evidence in the course of the hearing as he may think fit. Rules. 14 Sept. 1869.

Time for transmitting Case.

RULE 4.—Except as provided in the next rule, every case shall be transmitted to the proper officer of the Supreme Court in accordance with section 120 of the Act, within two months from the date of the judgment decree or order appealed from. Sec. 122.

RULE 5.—If the case should not be returned by the judge settled and signed, within fourteen clear days after he shall have received the same, then he shall indorse upon the case an enlargement of the time for transmitting the case to the proper officer of the Supreme Court, of fourteen days from the day upon which he shall return the case so settled and signed to the appellants.

Time within which Appeal must be Prosecuted.

RULE 6.—Every appeal must be prosecuted at the next available sitting of the court after the case shall have been transmitted to the proper officer. Sec. 122.

Copy of Judge's Notes.

RULE 7.—Any party to the suit(a) may obtain a copy of the judge's notes of the evidence at the hearing from the registrar upon payment to the registrar, for his own use, of a reasonable compensation for copying the same, such compensation not to exceed 2s. a folio.

ORDER VI.

PROBATE AND ADMINISTRATION.

[*Repealed. See* 38 *Vict. No.* 427, "*Administration* (*Deceased Persons' Estates*)," ante, *p.* 16.]

(a) That is, "equity proceedings," and not actions at law, and each side is properly entitled to a copy.—*Reg.* v. *Pohlman*, 1 V.R. (L.), 101; s.c. 1 A.J.R., 91.

Rules.

14 Sept. 1869.

THE SCHEDULE.

COUNTY COURT REGISTER.

PART I.—COMMON LAW.

No. of Plaint.	Date of Plaint.	Plaintiff's		Defendant's		Nature of action; and, where land or specific chattel in litigation, general description of land or chattel.	Amount of Claim.	Government Fee.	All notices of defence, and cases stated for opinion of Judge in ejectment.	Payment into court.	Judgment		Interlocutory orders, whether before or after judgment.	Warrant of Execution.	Return of Warrant.	Amount recovered.	Receipt.	Appeal and Results.	Notices, Remarks, Names of Practitioners.
		Name.	Address.	Name.	Address.						For Plaintiff.	For Defendant.							

COUNTY COURT REGISTER.

PART II.—EQUITY.

No. of Plaint or Petition.	Date of Plaint or Petition.	Plaintiff's		Defendant's		Nature of relief sought, and return day.	Admissions, disclaimer, and statement.	Decretal and other orders.	Accounts and Inquiries.	Decree and further directions.	Reserved for trial on issues of fact, and result.	Executions and Return.	Appeal.	Notices and Remarks.
		Name, and by whom.	Address entered.	Name.	Address.									

NOTE.—This Register may be used *mutatis mutandis*; also for proceedings by "Petition" in Equity, when the petitioner's name will be entered under the head "Plaintiff's."

COUNTY COURT REGISTER.

PART III.—PROBATE AND ADMINISTRATION.

[*Repealed, see* 38 *Vict. No.* 427—"*Administration* (*Deceased Persons' Estates*),' ante, *p.* 16.]

Rules. — 14 Sept. 1869.

Rules.

14 Sept. 1869.

SUITORS' CASH BOOK.

Dr. Date.	No.	Jurisdiction.	Parties.	Particulars.	Cr. Folio.	Amount.	Remarks.	Date.	No.	Jurisdiction.	Particulars.	Dr. Folio.	Amount.	Receipt. Cr.

SUITORS' FUND BOOK.

Dr. Cr.

Date.	Suit or proceeding and particulars of Funds brought into court, and approved plan of distribution.	Amount.	Total.	Date.	To whom paid.	Amount.	Total.	Receipt.

Rules. — 14 Sept. 1869.

Rules. — 14 Sept. 1869.

NOTICE REQUIRING JURY.

In the County Court at

A.B., plaintiff.
C.D., defendant.

Take notice that this cause is required to be tried by a jury.

To the registrar of the said court and to the defendant.

INTERPLEADER SUMMONS.

[*In Law, Equity, or Probate, as the case may be.*]

Plaint No.

In the County Court at

To , of
and , of

Whereas at the instance of you, the said , certain goods and chattels have been taken in execution under the process of this court, and a claim has been made in respect of such* by you the said

This is therefore to require you, the persons above named, to attend before the judge of the said court, at , at of the clock in the noon, in order that the said judge may adjudicate upon such claim, and make such order in respect thereof and of the costs incidental thereto as to him shall seem fit.

Given under my hand and the seal of the said court this day of

Registrar of the said court.

* Goods and chattels, *or* the proceeds *or* value thereof.

SCALE OF FEES AND COSTS ALLOWABLE TO PRACTITIONERS.

[*See the Amended Scale, 7th July* 1871, post, *p.* 2898.]

FORMS IN ACTIONS AND PROCEEDINGS UNDER PART II. OF THE ACT.—COMMON LAW.

EXAMPLES OF "STATEMENTS OF CAUSES OF ACTION."

On Contracts.

Goods sold and delivered, particulars of which are annexed.

Work and materials. Work done and materials provided between the day of and the day of

Money lent. Money lent on the day of , *or* between the day of and the day of

Money paid. Money paid at your request on the day of , *or* between the day of and the day of

Money received. Money received for the use of the plaintiff.

Account stated. Money found to be due from the defendant to the plaintiff on accounts stated on or about the day of

For an estate sold. A messuage and lands sold and conveyed by the plaintiff to the defendant on the day of

For goodwill. The goodwill of a business, and given up by the plaintiff to you.

For the use of a house and land. The defendant's use of messuages and lands of the plaintiff from the day of to the day of

For hire of goods, &c. The hire of [*as the case may be*] by the plaintiff, let to hire to the defendant.

For freight. Freight for the conveyance of goods in ships.

For demurrage. The demurrage of a ship of the plaintiff kept on demurrage by you.

Money due on the following promissory note [*copy the note*], of which promissory note you are maker [*or* indorser] [and plaintiff is payee (*or* indorsee)].

Money due on the following bill of exchange [*copy the bill, together with all the indorsements on it*], of which bill of exchange you are acceptor [*or* drawer *or* indorser], and of which plaintiff is drawer [*or* indorsee *or* holder].

Warranty of a horse. That you by warranting a horse to be then sound and quiet to ride sold the said horse to the plaintiff, yet the said horse was not then sound and quiet to ride.

Rules. 14 Sept. 1869.

That the plaintiff let to you a house at for seven years, to hold from the day of A.D. , at £ a year, payable quarterly, of which rent quarters are now due and unpaid. Upon a lease rent.

That the plaintiff by deed let to you a house No. , to hold for seven years from the day of A.D. , and that you by the said deed covenanted with the plaintiff well and substantially to repair the said house during the said term (according to the covenant), yet the said house was during the said term out of good and substantial repair. Upon a covenant to repair.

For Wrong or Injury.

That you, on or about the day of A.D. 18 , assaulted and beat the plaintiff. For an assault.

That you, on or about the day of A.D. 18 , wrongfully deprived the plaintiff of the use and possession of a horse, value £ . Trover. For a horse.

That you detained from the plaintiff his title deeds of land called , in the county of , that is to say [*describe the deeds*]. Detinue.

That, on or about the day of A.D. 18 , one A.B., your servant, in driving a carriage drove the same so improperly that it was forced against the plaintiff's cart, which was thereby greatly damaged. Injury by improper driving.

That you, on the day of A.D. 18 , wrongfully caused to be impounded ten oxen and one hundred sheep of the plaintiff, and kept them impounded for days. Wrongful impounding cattle.

That the plaintiff has a right to pass and repass on foot and with horses, carriages, and carts, along a certain road from to , as set out in the plan hereunto annexed, yet you, on or about the day of A.D. 18 , obstructed the plaintiff in the enjoyment of such road. For obstructing a right of road.

That you, on or about the day of A.D. 18 , trespassed on the close of the plaintiff, situate at , and now in his occupation, and described on the plan hereunto annexed, and then and since that time with cattle and horses occupied the same, and destroyed the grass and herbage therein [*or* drove off the cattle of the plaintiff then being thereon, *or* broke down a fence thereon and put up another and ploughed acres of the soil, *or* cut down and carried away a crop of oats then growing thereon, *or* caused injury to the same by sludge]. Trespass, to land.

That you, on or about the day of A.D. 18 , intending to injure the plaintiff, maliciously published in the presence and hearing of divers persons [*or* in a certain letter or newspaper] the following false and scandalous or libellous words of and concerning the plaintiff as follow:—[*Here set out the words complained of*]. Slander or libel.

That you, on or about the day of A.D 18 , wrongfully seized divers goods of the plaintiff [*set out the actual number of each class of goods taken*], twenty tables value £ , twenty beds value £ , twenty chairs value £ , twenty boxes value £ , &c., of the value of £ , under the pretence that the plaintiff was then indebted to the defendant in the sum of £ as rent arrear, for certain premises held by the plaintiff as tenant thereof to the defendant, and wrongfully sold the same [*or* wrongfully kept possession of the same until the plaintiff, in order to recover the said goods paid you your pretended claim and alleged costs and charges, amounting to £], yet the sum of £ was not at the time of making the said distress due by the plaintiff for the said rent, but a small part only, namely £ was so due. Distress for more rent than due.

That on or about the day of A.D. 18 , plaintiff delivered to you divers goods [*set them out*] of the value of £ , to be carried from to , and there to be safely delivered to one for the plaintiff within a reasonable time, for reward paid [*or* to be paid] by the plaintiff, yet you so negligently performed your duty that the said goods were lost to the plaintiff. Against carrier by land for negligence.

That you, on the day of , assaulted and imprisoned the plaintiff without lawful authority. False imprisonment.

That you, on the day of , wrongfully seized the goods of plaintiff, which are set out in the statement of particulars annexed hereto and which goods the plaintiff is proceeding to recover by warrant of replevin. Statement of seizure in action of replevin.

[*And as to Ejectment see post Form and post Rules "Ejectment."*]

PLAINT SUMMONS [EXCEPT IN EJECTMENT].

For trial by Plaint No.

In the County Court at

To [*insert defendant's name, address, and occupation*].

You are hereby summoned to appear in the County Court at , on the day of 18 , at ten o'clock in the forenoon of the same day precisely, to answer the plaint of , who resides at , by which plaint he seeks to recover from you the sum

Rules.

14 Sept. 1869.

of pounds shillings and pence. For [*here state cause of action as in "Examples of statement of causes of action"*]. If upon the day named you do not attend and show good cause to the contrary, judgment will be given against you, together with such costs as the court may think fit to award.

Bring this summons with you when you come to the court or to my office.

Given under my hand and the seal of the said court this day of 18 .

The plaintiff and his address by the post is to the care of his practitioner [barrister *or* attorney] who is carrying on business at

Registrar of the said court.

If the action be for libel or slander and the truth of the libel or slander be relied on, like notice must be given.

A copy of the notice must also be forwarded to the registrar of the court.

NOTICE.—If you admit the whole or any part of the plaintiff's claim, you may pay into court such sum of money as you may think a full satisfaction for the demand of the plaintiff, together with the costs incurred in this matter, six clear days before the time at which you are hereby required to appear, and by so doing you will avoid any further expense, unless the plaintiff at the hearing shall prove a demand against you exceeding the sum so paid into court.

If you have any defence to the demand by way of set-off, or if you wish to set up by way of defence, and to have the benefit of illegality, infancy, coverture, any statute of limitation, or of your discharge under any Act relating to insolvent debtors, of an equitable or statutory defence, the same cannot be admitted unless you give notice in writing to plaintiff or his attorney, either by post or by causing the same to be delivered six clear days at least before the hearing.

You may have a summons to compel the attendance of any witness for the production of any books or documents on applying at my office.

[*To be indorsed on or annexed to summons:*—]

In the County Court, Plaint No.

Between plaintiff

and

defendant.

I , of , in the colony of Victoria , make oath and say that I served a true copy of the within summons and particulars of demand thereto annexed on the within named defendant by delivering such true copy to , on , the day of One thousand eight hundred and

Sworn at , in the colony of Victoria this day of in the year of our Lord One thousand eight hundred and

Before me

A commissioner of the Supreme Court of the colony of Victoria for taking affidavits.

COUNTY COURT—PLAINT SUMMONS IN EJECTMENT.

For trial by

To , of , in the colony of Victoria, and to all persons entitled to defend the possession of the property herein described.

You are hereby summoned to appear in the County Court at on , the day of 18 , at ten o'clock in the forenoon of the same day precisely, to answer the plaint of A.B. who resides at , by which plaint he seeks to recover possession of [*here describe the land*], the annual value whereof is £20, and a plan whereof is hereto annexed, and the plaintiff seeks to recover upon [*here state estate and title as* the title in fee-simple which he declares to be in himself as granted from the Crown, *or* in fee-simple which he declares to be in himself as purchaser from M.N., *or* his title as mortgagee in fee]. [*Insert if plaintiff seeks to recover for mesne profits,* And the plaintiff seeks also to recover £ , as the profits of the said land of which he has been deprived by you.]

And take notice that unless you appear judgment may be given and you turned out of possession.

Dated the day of 18 .

Registrar of the court.

Take notice.—If you, the defendants, or any of you, being tenants of the property, you must upon being served with this summons, or if this summons shall come to your knowledge, forthwith give notice thereof to your immediate landlord, or to his bailiff or

receiver, and if you do not give such notice you will be liable under section 176 of 28 Vict. No. 274, and the County Court Statute 1869, to forfeit to your landlord three years' rack-rent of the premises demised to you or holden in your possession of him in respect of which this summons has issued.

Rules. 14 Sept. 1869.

If you seek to avail yourself of any of the defences enumerated in section 58 of the Act, you must give notice in writing to the plaintiff, or to his attorney, either by post or by causing the same to be delivered six clear days at least before the hearing.

PLAINT NOTE.

In the County Court at

plaintiff, defendant. } Plaint No.

This note must be kept by the plaintiff or his attorney, and must be produced whenever required by the registrar, and no money can be taken out of court at any stage of the cause unless on production hereof.

Dated this day of

Registrar of the court.

NOTICE BY REGISTRAR UNDER SECTION 56 OF THE ACT.

In the County Court at

A.B., plaintiff, C.D., defendant. } Plaint No.

Take notice.—The defendant in this action has [*or* has not] given notice of his intention to defend.

Dated this day of

G.F.B., Registrar.

To Mr. A.B., the plaintiff [*or* to Mr. X.Y., plaintiff's attorney.]

NOTICE OF PAYMENT INTO COURT.

In the County Court at

A.B., plaintiff, C.D., defendant. } Plaint No.

The defendant has paid into court the sum of for [debt], and for costs. If you think the same a full satisfaction for your demand in this action, the same may be paid to you after filing your plaint note at my office, but if you elect to proceed, you may do so; in which case, if you recover no further sum, you will have to pay the defendant all costs which he will incur by reason of your *further* proceeding.

Dated this day of

Registrar of the said court.

NOTICE OF SPECIAL OR EQUITABLE DEFENCE.

In the County Court at

A.B., plaintiff, and C.D., defendant. } Plaint No.

The defendant on the trial of this cause intends to claim and have the benefit of the following defences:—[*These must be set out in accordance with the rules.*]

Dated this day of 18 .

Defendant's

To Mr. the abovenamed plaintiff's attorney, and to the registrar of the said court.

PRÆCIPE FOR SUMMONS FOR WITNESSES.

In the County Court at

A.B, plaintiff, and C.D., defendant. } Plaint No.

The plaintiff or defendant [*as the case may be*] requires summons for witnesses in this action.

Dated the day of

Rules.
14 Sept. 1869.

SUMMONS TO WITNESS.

In the County Court at

A.B., plaintiff, C.D., defendant. } Plaint No.

To

You are hereby severally required to appear personally at the County Court at , on the day of , at the hour of o'clock in the forenoon, to give evidence on behalf of the abovenamed , and then and there to produce and all other books, papers, writings, and other documents relating to the said action which may be in your custody, possession, or power.

In default of such attendance you will be liable to be punished in a summary way by fine and imprisonment, and also to be sued for damages.

Given under my hand and the seal of the said court this day of 18 .

Registrar of the said court.

NOTICE OF DISCONTINUANCE.

In the County Court at

A.B., plaintiff, C.D., defendant. } Plaint No.

The plaintiff hereby gives notice of discontinuance in this action.

Dated this day of 18 .

A.B., plaintiff.
[*or*]
Y.Z., attorney for plaintiff.

To C.D., the defendant, and to the registrar of the said court.

EJECTMENT.

PLAINT SUMMONS IN EJECTMENT.

[See Form given *ante*.]

Notice of Withdrawal of Action as to the whole or part of property.

Take notice that I the abovenamed plaintiff will not proceed in this action [*or* in respect of that portion of the property hereinafter described, that is to say, *here describe the said portion of property*].

Plaintiff.

Notice in Ejectment that a person not originally made a defendant will appear and defend.

Take notice that M.N. has filed the affidavit, a copy of which is hereunto annexed, and that by leave of the registrar he will appear at the trial as a defendant.

To the plaintiffs.

Notice in Ejectment that a defendant will limit his defence to part of the property.

Take notice that the abovenamed defendant K.L. will at the trial of this action limit his defence to a part only of the property mentioned in the statement annexed to the summons; that is to say [*here describe the part to which the defence is limited with reasonable certainty.*]

To the registrar of the court and to the plaintiffs.

Judgment in Ejectment for all the plaintiffs for the whole property.

It is adjudged that the plaintiffs were on the [*the day on which the summons issued, or the day stated in the summons on which the title of plaintiffs accrued*] day of 18 , and still are entitled to the possession of the property mentioned in the statement in the plaint summons in this action; that is to say [*describe the property as set out in the statement*]; and it is ordered that the defendants do give the plaintiffs possession of the said above mentioned property forthwith [*or* on the day of]; and it is adjudged that the plaintiffs do recover against the defendants £ for costs, to be paid on or before the day of 18 .

To the defendants.

Take notice that if possession be not given and payment made as above ordered, a warrant may issue requiring the bailiff of the court to give possession of the said property to the plaintiffs, and to levy the sum above mentioned, together with further costs.

Rules. 14 Sept. 1869

Judgment in Ejectment for all the plaintiffs for part of the property against one of the defendants, and for the other defendants as to the residue of the property.

It is adjudged that the plaintiffs were, on the day of 18 , and still are entitled to the possession of part of the property mentioned in the statement in the plaint summons in this action; that is to say [*describe the part the plaintiffs are adjudged entitled to*], and for which part the defendant G.H. defended separately; but that the plaintiffs were not nor are entitled to the possession of the residue of the property described in the statement in the plaint summons for which the defendants L.J. and K.L. defended; and it is ordered that the defendant G.H. do give the plaintiffs possession of the said part of the said property for which the said G.H. defended separately forthwith [*or* on the day of 18]; and it is adjudged that the plaintiffs do recover against the defendant G.H. £ for costs, and that the defendants L.J. and K.L. do recover against the plaintiffs £ for costs, the costs to be paid on or before the day of 18 .

To the defendant, G.H., and to the plaintiffs.

Take notice that unless possession be given and payment made as above ordered, a warrant or warrants may issue requiring the bailiff of the court to give possession of the said property to the plaintiffs, and to levy the sums above mentioned from the parties ordered to pay the same respectively, together with further costs.

Judgment in Ejectment for one of the plaintiffs for all the property against all the defendants.

It is adjudged that the plaintiff A.B. was, on the day of 18 , and still is, entitled to the possession of the property mentioned in the statement in the plaint summons in this action; that is to say [*describe the property as set out in the statement annexed to the summons*]; and it is ordered that the defendants do give the said plaintiff A.B. possession of the said above mentioned property forthwith [*or* on the day of], and it is adjudged that the said plaintiff A.B. do recover against the defendants £ for costs, to be paid on or before the day of 18 .

To the defendants.

Take notice that unless possession be given and payment made as above ordered a warrant may issue, requiring the bailiff of the court to give possession of the said property to the plaintiff A.B., and to levy the sum above mentioned, together with further costs.

Judgment in Ejectment for plaintiff whose title has expired before trial.

No. of Plaint,

In the County Court at
(Seal.)

Between A.B., plaintiff,
and
C.D., defendant.

It is adjudged that the plaintiff was, on the day of 18 , and thence until and at the time of the entry of the plaint and of the service of the summons in this action, entitled to the possession of the property mentioned in the plaint summons in this action, that is to say [*here describe the property as set out in the statement*], but his title to the same has since that time and before this day expired; and it is further adjudged that the plaintiff do recover against the defendant £ for costs, to be paid on before the day of 18 .

Given under the seal of the court this day of 18 .

By the court,

Registrar of the court.

To the defendant.

Heading and Conclusion for Special Case in Ejectment.

No. of Plaint,

In the County Court of
(Seal.)

Between A.B., plaintiff,
and
C.D., defendant.

Whereas an action of ejectment was commenced by the plaintiff against the defendant, and is still pending in this court for the recovery of [*here describe the property sought to be recovered as set out in the statement annexed to the summons*], and the parties have agreed upon the facts; now, by leave of the registrar, they state for the opinion of the court the following case.

Rules. 14 Sept. 1869.

[*Here set out the facts, and any deeds or documents, or so much thereof as may be material, numbering each paragraph of the case as in an affidavit, and conclude thus:*]

If the court shall be of opinion that the plaintiff is entitled to recover the whole or part of the property. then judgment shall be given accordingly for the plaintiff with costs, but if the court shall be of a contrary opinion then judgment shall be entered for the defendant, or judgment of nonsuit shall be given, with costs, as to the court shall seem fit.

A.B., plaintiff,
or
E.F., plaintiff's attorney.
C.D., defendant,
or
G.H., defendant's attorney.

Judgment in Ejectment for defendant.

It is adjudged that the plaintiff was not on the day of 18 , nor thence hitherto hath been nor is he now entitled to the possession of the property, or of any part of the property mentioned in the statement in the plaint summons in this action; that is to say [*here describe the property as set out in the statement*]; and it is further adjudged that judgment be entered for the defendant [*or* that judgment of nonsuit be entered], and that the defendant do recover against the plaintiff £ for costs, to be paid on or before the day of 18 .

To the plaintiff.

Judgment in Ejectment for plaintiff where defendant is joint tenant, tenant in common or coparcener with plaintiff, and an actual ouster is proved.

It is adjudged that the plaintiff and defendant were on the day of 18 , and still are entitled to the joint possession of the property mentioned in the statement annexed to the summons in this action as joint tenants [*or* as tenants in common *or* as coparceners]; that is to say [*describe the property as set out in the statement*], and it having been proved to the satisfaction of the court that the defendant did before the commencement of this action actually oust the plaintiff from the possession of the said property, and thence hitherto hath kept and still keeps the plaintiff ousted therefrom, it is adjudged and ordered that judgment be entered for the plaintiff, and that the defendant do give the plaintiff jointly with him, the defendant, possession of the said above mentioned property forthwith [*or* on the day of], and that the plaintiff do recover against the defendant the sum of £ for costs.

And it is ordered that the defendant do pay to the registrar of this court the sum above mentioned, on or before the day of 18 .

To the defendant.

Take notice that if possession be not given, and payment made as above ordered, a warrant may issue requiring the bailiff of the court to give possession of the said property to the plaintiff, and to levy the sum above mentioned, with further costs.

Judgment in Ejectment for defendant where defendant is joint tenant, tenant in common or coparcener with the plaintiff, and no actual ouster is proved.

It is adjudged that the plaintiff and the defendant were, on the day of 18 , and still are entitled, as joint tenants [*or* as tenants in common, *or* as coparceners] to the joint possession of, that is to say [*describe the property as set out in the statement*], mentioned in the statement annexed to the summons in this action; and it not having been proved to the satisfaction of the court that the defendant has actually ousted the plaintiff from the possession of the said property, or of any part thereof, it is adjudged and ordered that judgment be entered for the defendant, and that the defendant do recover against the plaintiff the sum of £ for costs to be paid, on or before the day of 18 .

To the plaintiff.

Order in Ejectment for the substitution of the heir or other representative of a sole plaintiff who dies before the return day for such deceased plaintiff, and for the continuation of the action in the name of the heir or other representative.

Upon reading the affidavit of E F., and upon hearing the attorneys of the said E.F., and of the defendant, and it appearing to the court that the plaintiff, A.B., died on the day of , now last past, and since the commencement of this action, and that the said E.F. is the heir-at-law of the said A.B., and as such heir entitled to whatever estate or interest the said A.B. had in the property sought to be recovered in this action [*or* that the said E.F. is entitled as devisee under the will of the said A.B., to whatever estate or interest the said A.B. had in the property sought to be

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recovered in this action, *or as the case may be*], it is ordered that the name of the said E.F., as heir-at-law [*or* as devisee under the will, *or as the case may be*], of A.B., deceased, be substituted in the proceedings in this action for the name of the said A.B., deceased, as plaintiff in this action, and that the said E.F. be at liberty to continue this action in his own name as plaintiff, and to proceed therein as if he had been originally the plaintiff therein, and that the said E.F. do pay to the registrar of this court, on or before the day of 18 , the sum of £ for the costs occasioned to the defendant by this application, and that the trial of this action be forthwith proceeded with [*or* be adjourned to the day of 18].

To the defendant.

N.B.—In explanation of this form it may be mentioned that after the amendment the title of the cause will stand thus :—

Between E.F. (the heir-at-law of A.B., the original plaintiff, deceased),
plaintiff,
and
C.D., defendant.
Or,
Between E.F. (the devisee under the will of A.B., the original plaintiff, deceased),
plaintiff,
and
C.D., defendant.

Order in Ejectment for the substitution of the heir or other representative of one of several plaintiffs who dies before the return day for such deceased plaintiff, and for the continuation of the action in the names of the surviving plaintiff and of the heir or other representative of the deceased plaintiff.

Upon reading the affidavit of K.L., and upon hearing the attorneys of the said K.L. and of the defendants, and it appearing to the court that the plaintiff C.D. died on the day of now last past, and since the commencement of this action, and that the said K.L. is the heir-at-law [*or as the case may be*] of the said C.D., and as such heir [*or as the case may be*] is entitled to whatever estate or interest the said C.D. had in the property sought to be recovered in this action; it is ordered that the name of the said K.L. as heir-at-law [*or as the case may be*] of C.D. deceased be substituted in the proceedings in this action for the name of the said C.D. deceased as one of the plaintiffs, and that the action be continued and proceeded with in the names of A.B. and K.L. as plaintiffs as if the said A.B. and K.L. had been originally the plaintiffs therein, and that the said K.L. do pay to the registrar of this court on or before the day of 186 , the sum of £ for the costs occasioned to the defendants by this application, and that the trial of this action be forthwith proceeded with [*or* be adjourned to the day of 186].

To the defendants.

Judgment in Ejectment for substituted plaintiff.

No. of Plaint,

In the County Court at

(Seal.)

Between E.F. (the heir-at-law of A.B., the original plaintiff, deceased), plaintiff,
and
C.D., defendant.
Or,
Between E.F. (the devisee under the will of A.B., the original plaintiff, deceased), plaintiff,
and
C.D., defendant.

Whereas the plaintiff A.B. died after the commencement of this action, and before the return day of the summons therein, and by an order of the court made this day [*or* on the day of last] it was ordered, amongst other things, that the name of the said E.F., as heir-at-law of A.B., deceased, should be substituted in the proceedings in this action for the name of the said A.B. deceased as plaintiff, and that the action should be continued in the name of the said E.F. as plaintiff as aforesaid.

Now, upon the hearing thereof at a court holden this day, it is adjudged that the said A.B. on the day of 18 , and thence until the day of his death, was entitled to the possession of the property mentioned in the statement in the plaint summons in this action; that is to say [*describe the property as set out in the statement*]; and that the said plaintiff E.F. is the heir-at-law of the said A.B. and as such heir became on the death of the said A.B. and still is entitled to the possession of the said above mentioned property; and it is ordered that the defendant do give the plaintiff E.F. possession of the said above mentioned property, forthwith [*or* on the day of 18], and it is adjudged that the plaintiff E.F. do recover against the

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defendant the sum of £ for costs, to be paid on or before the day of 18 .

Given under the seal of the court this day of 18 .

By the court,

Registrar of the court.

To the defendant.

Take notice that if possession be not given and payment made as above ordered a warrant may issue requiring the bailiff of the court to give possession of the said property to the plaintiff, and to levy the sum above mentioned, together with further costs.

[*N.B.—If E.F. be entitled as devisee under the will of A.B., the original plaintiff, or if A.B. be one of several joint plaintiffs, the above form must be altered accordingly.*]

Judgment in Ejectment for surviving and substituted plaintiffs.

No. of Plaint,

In the County Court at

(Seal.)

Between A.B. and K.L. the heir-at-law of C.D. (one of the original plaintiffs), deceased, plaintiffs,

and

E.F. and G.H., defendants.

Whereas one of the plaintiffs, C.D., died after the commencement of this action and before the return day of the summons therein, and by an order of this court made this day [*or* on the day of last], it was ordered (amongst other things) that the name of the said "K.L., as heir-at-law of C.D., deceased," should be substituted in the proceedings in this action for the name of the said C.D., deceased, together with the name of the said A.B., as plaintiffs, and that the action should be continued in the names of the said A.B. and K.L., as plaintiffs, as aforesaid.

Now upon the hearing thereof at a court this day holden, it is adjudged that the said A.B. and C.D., deceased, were on the day of 18 , and thence until the day of the death of the said C.D., entitled to the possession of [*describe the property as in the statement in the plaint summons*], mentioned in the statement in the plaint summons in this action, and that the said plaintiff, K.L., is the heir-at-law of the said C.D., deceased; and that on the death of the said C.D., the said A.B. and K.L. became and still are entitled to the possession of the property in the said statement mentioned, and it is ordered that the defendants do give the plaintiffs, A.B. and K.L., possession of the property above mentioned, and described forthwith [*or* on the day of 18 ,]; and it is adjudged that the plaintiffs, A.B. and K.L., do recover against the defendants the sum of £ for costs.

And it is ordered that the defendants do pay to the registrar of this court the sum above mentioned on or before the day of 18 .

Given under the seal of the court this day of 18 .

To the defendants.

[*If K.L. be entitled as devisee under the will of C.D., one of the original plaintiffs, this form must be altered accordingly.*]

Order in Ejectment, giving leave to a party claiming the property on the death of defendant, who dies before the return day, to appear and defend in the place of such deceased defendant.

Upon reading the affidavit of E.F., and upon hearing the attorneys of the said E.F., and of the plaintiff, and it appearing to the court that the defendant has died since the commencement of the action, and that upon the death of the defendant the said E.F. became entitled to whatever estate or interest the defendant, C.D., had in the property sought to be recovered in this action; it is ordered that the said E.F. be at liberty to appear and defend the said property above mentioned and described in the place of the said C.D., deceased, and that the name of the said E.F. be substituted for that of the said C.D., deceased, as defendant in the proceedings in this action, and that this action be continued as if the said E.F. had been originally made defendant therein; and that the said E.F. do pay to the registrar of this court on or before the day of 18 the sum of £ for the costs occasioned to plaintiff by this application, and that the trial of this action be forthwith proceeded with [*or* be adjourned to the day 18].

To the plaintiff.

[N.B.—In explanation of this form it may be mentioned that after the amendment the title of the cause will stand thus:—

Between A.B., plaintiff,

and

E.F. (substituted for C.D., deceased), defendant.

and all the subsequent proceedings will be against E.F., as if he had been originally defendant.]

Summons in Ejectment in the nature of a scire facias for costs against the representatives of a deceased defendant.

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No. of Plaint,

In the County Court at

(Seal.)

Between A.B., plaintiff [*address, description*],
and
C.D., defendant [*address, description*].

Whereas the plaintiff at a court holden at on the day of 18 obtained a judgment against C.D., of for the recovery of the possession of [*here describe the property as in the judgment*], and for the sum of £ for costs, which judgment remains unsatisfied so far as relates to the said costs; and whereas the said C.D. has since died, and you are his executor [*or state other representative character*], you are hereby summoned to appear at a court to be holden at on the day of 18 at o'clock in the noon, to show cause why judgment should not be entered up against you at the suit of the plaintiff on the judgment so obtained for the said sum of £ for costs, and why execution should not issue thereon for the same.

To the defendant.

Due on judgment for costs £

[*N.B.—Judgments can easily be framed from the ordinary form of judgment on scire facias summons.*]

Judgment in Ejectment for plaintiff who has withdrawn the action as to part of the property.

Whereas the plaintiff has withdrawn this action as to part of the property mentioned in the statement annexed to the summons in this action; that is to say [*describe the part of the property as set out in plaintiff's notice*], and the action has proceeded for the recovery of the remainder of the said property; now upon the hearing thereof this day it is adjudged that the plaintiff was on the day of 18 , and still is entitled to the possession of the remainder of the property mentioned in the statement annexed to the summons in this action; that is to say [*describe the remainder of the property*]; and it is ordered that the defendant do give the plaintiff possession of the said lastly above mentioned property forthwith [*or* on the day of]; and it is adjudged that the plaintiff do recover against the defendant the sum of £ for costs:

And it is ordered that the defendant do pay to the registrar of this court the sum above mentioned on or before the day of 18 .

To the defendant.

[*N.B.—If the judgment be that plaintiff recover part only of the remainder of the property, or be for the defendant, this form must be altered accordingly.*]

Confession in Ejectment by defendant of plaintiff's title to the property.

No. of Plaint,

In the County Court at

Between A.B., plaintiff,
and
C.D., defendant.

I, the abovenamed defendant, hereby confess and admit the plaintiff's title to the property mentioned in the statement in the plaint summons in this action, and sought to be recovered therein, and that the plaintiff is entitled to the immediate possession thereof.

Dated this day of 18 .

Defendant.

Signed by the defendant in the presence of

To the registrar of the court.

Confession in Ejectment by defendant defending separately for part of the property of plaintiff's title to such part.

No. of Plaint,

In the County Court at

Between A.B., plaintiff,
and
C.D. and E F., defendant.

I, C.D., one of the abovenamed defendants, defending separately for [*here describe the part for which C.D. defends*], being part of the property mentioned in the statement annexed to the summons in this action, and for which no other person defends, do hereby

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confess and admit the plaintiff's title to the above mentioned part of the said property, and that he is entitled to the immediate possession thereof.

Dated this day of 18 .

C.D., one of the defendants.

Signed by C.D., one of the defendants, in presence of

To the registrar of the court.

Judgment in Ejectment for plaintiff where a defendant defending separately for part of the property admits plaintiff's title to such part, and the action proceeds for the recovery of the remainder of the property.

Whereas C.D., one of the defendants defending separately for [*here describe the part for which C.D. defends*], being part of the property mentioned in the statement annexed to the summons in this action, and for which no other person defends, hath confessed and admitted the plaintiff's title to the said part of the said property, and that the plaintiff is entitled to the possession thereof; and whereas the action has proceeded for the recovery of the remainder of the said property; now, upon the hearing thereof at a court holden this day, it is adjudged that the plaintiff was on the day of 18 , and still is entitled to the possession of the remainder of the property mentioned in the statement in the plaint summons in this action; and it is ordered that the defendant C.D. do give the plaintiff possession of the said [*describe the part defended by C.D.*] forthwith [*or* on the day of 18] and that the defendant E.F. do give the plaintiff possession of the said [*the remainder of the property*] forthwith [*or* on the day of 18]; and it is adjudged that the plaintiff do recover against the defendant C.D. the sum of £ for costs, and against the defendant E.F. the sum of £ for costs.

And it is ordered that the defendants do respectively pay the said sums above mentioned to the registrar of this court on or before the day of 18 .

To the defendants.

Take notice that unless possession be given and payment made as above ordered a warrant may issue requiring the bailiff of the court to give possession of the said property to the plaintiff, and to levy the sums above mentioned, together with further costs.

N.B.—If the judgment be that plaintiff recover part only of the remainder of the property, or be for the defendant, the above form must be altered accordingly.

Notice in Ejectment by mortgagee against mortgagor that defendant has paid into court a sum of money for principal, interest, and costs.

Take notice that the defendant has paid into court the sum of £ as being all that is due for principal and interest upon the mortgage upon which this action is brought, and for costs; and further take notice that if you are willing to accept the said sum so paid into court you need not appear on the return day of the summons; but if you do not agree to accept the said sum so paid in as aforesaid, you should appear at the court on that day, as the court will then proceed to determine whether the said sum of £ so paid into court as aforesaid is sufficient to satisfy all such principal, interest, and costs and fees as aforesaid, and will in either case make such order in the matter as to the court shall seem fit.

Dated this day of 18 .

Registrar of the court.

To the plaintiff.

Order in Ejectment by mortgagee against mortgagor (all money due for principal, interest, and costs having been paid into court), upon plaintiff to reconvey to the defendant the mortgaged property.

Whereas this action is brought to recover possession of certain property mortgaged by the defendant to the plaintiff, and the defendant has paid into court the sum of £ for principal, interest, and costs due upon or in respect of the said mortgage; now upon the hearing thereof at a court this day holden, the plaintiff not appearing [*or* the plaintiff agreeing to accept the said sum of for such principal, interest, and costs as aforesaid, *or* the plaintiff alleging that the said sum of £ is not sufficient to satisfy such principal, interest, and costs, as aforesaid, it is adjudged that the said sum is sufficient to satisfy such principal, interest, and costs as aforesaid, and] it is ordered that within days from this day the plaintiff shall, at the costs and charges of the defendant, reconvey to the defendant the mortgaged property for the recovery of which this action is brought, and shall deliver up to the defendant all title deeds and writings relating to the said property.

To the plaintiff and to the defendant.

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Order in Ejectment by mortgagee against mortgagor (a certain sum having been paid into court for principal, interest, and costs), that defendant shall pay a further sum into court and that upon such payment being made the plaintiff shall reconvey the mortgaged property to the defendant.

Whereas this action is brought to recover possession of certain property mortgaged by the defendant to the plaintiff, and the defendant has paid into court the sum of £ for principal, interest, and costs due upon or in respect of the said mortgage; now, upon the hearing thereof, at a court this day holden, the plaintiff refusing to accept the said sum so paid into court as aforesaid, it is adjudged that the said sum of £ is not sufficient to satisfy the principal, interest, and costs due upon or in respect of the said mortgage, and that the further sum of £ is due from the defendant to the plaintiff for the same; and it is ordered that the defendant shall on or before the day of 18 pay to the registrar of this court the said last mentioned sum, together with £ for the plaintiff's costs in this action, and that upon the said sums of £ and £ , amounting together to the sum of £ , being paid into court on or before the said day of 18 the plaintiff shall, within days from the said last mentioned day, at the costs and charges of the defendant, reconvey to the defendant the mortgaged property for the recovery of which this action is brought, and deliver up to him all title deeds and writings relating thereto; and it is further ordered, that if the defendant shall not, before or on the said day of 18 pay the said last mentioned sum, then execution shall forthwith issue on the application of the plaintiff for the recovery of the possession of the property described in the plaint summons in this action, and for the sum of £ [*the costs of this action*], together with the costs of the execution; and the registrar shall return the money paid into court to the defendant.

To the plaintiff and to the defendant.

Warrant of Execution in Ejectment for possession and costs.

Whereas at a court holden at , on the day of 18 , it was adjudged that the plaintiffs were on the day of 18 and still are entitled to the possession of the property mentioned in the statement in the plaint summons in this action; that is to say [*describe the property as set out in the statement*]; and it was ordered that the defendants should give the plaintiffs possession of the said above mentioned property forthwith [*or* on the day of], and it was adjudged that the plaintiffs should recover against the defendants the sum of £ for costs, and it was ordered that the defendants should pay the said sum forthwith [*or* on the day of]:

And whereas the defendants have not obeyed the said order: These are therefore to authorize and require you to forthwith give possession of the said hereinbefore mentioned property to the plaintiff: And these are therefore further to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the defendant, wheresoever they may be found within the district of this court (excepting the wearing apparel and bedding of the defendant or his family, and the tools and implements of his trade, if any, to the value of five pounds), the said sum and costs of this warrant and execution; and also to seize and take any money or bank notes, and cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money, of the defendant, which may be there found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same, and to pay the amount so levied to the registrar of this court, and make return of what you have done under this warrant immediately upon the execution thereof.

To the bailiff of the said court.

Special Warrant of Execution in Ejectment for possession and costs where one of several plaintiffs has died after judgment and before execution executed.

Whereas at a court holden at , on the day of 18 , it was adjudged that the plaintiffs were on the day of 18 and still are entitled to the possession of [*describe the property as in the statement in the plaint summons*], mentioned in the statement in the plaint summons in this action, and it was ordered that the defendants should give the plaintiffs possession of the same forthwith [*or as in the judgment*]; and it was adjudged that the plaintiffs should recover against the defendants the sum of £ for costs, and it was ordered that the defendants should pay the said sum to the registrar of this court forthwith [or *as in the judgment*]:

And whereas the defendants have not obeyed the said order:

And whereas C.D., one of the plaintiffs, has died since judgment was given and before execution executed:

These are therefore to authorize and require you to forthwith give possession of the said hereinbefore mentioned premises to the surviving plaintiffs, A.B. and E.F., on behalf of themselves and of the legal representatives of the deceased plaintiff, C.D. And these are therefore further, &c. [*conclude as in last form*].

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JUDGMENT IN REPLEVIN FOR PLAINTIFF.

It is adjudged that the plaintiff do recover against the defendant the sum of for damages, and for costs, amounting together to the sum of

JUDGMENT FOR DEFENDANT IN REPLEVIN FOR RENT.

It is adjudged that the plaintiff do return to the defendant the goods and chattels [*or* cattle, *stating the particulars thereof*], and pay to the registrar of the court forthwith [*or* on the day of] the sum of for costs of suit; [*or* It is adjudged that the amount due for rent in arrear from the plaintiff to the defendant is , and that the goods and chattels [*or* cattle] were of the value of , and that the plaintiff do forthwith [*or* on the day of] pay to the registrar of the court, at his office the said sum of and also the sum of for costs of suit].

JUDGMENT FOR DEFENDANT IN REPLEVIN OF CATTLE DAMAGE FEASANT.

It is adjudged that the plaintiff do return to the defendant [*here specify the cattle*], *or* do pay to the registrar of this court forthwith, or on the day of the sum of pounds, which is now adjudged to be the amount of damages so sustained by the defendant. It is also adjudged that the plaintiff do pay to the registrar of the court, on the day and year aforesaid, the sum of for costs.

ATTACHMENT OF DEBTS.

Notice of desire to examine defendant as to certain debts due to him.

I, the abovenamed plaintiff, am desirous, should I succeed in obtaining a judgment against the defendant, of having him examined forthwith after I have obtained such judgment, as to whether or not the following debts are due to him from the following persons, viz.:—

E.F., of , for goods sold and delivered.
G.H., of , for work done.

(Signed) A.B., plaintiff.

To the registrar of the above court.

Order when garnishee present.

In the County Court at

No. of Plaint,

Between A.B., plaintiff,
and
C.D., defendant.

Whereas the plaintiff has obtained a judgment against the defendant for the sum of £ [*here insert the amount of judgment*]:

Upon examination of the defendant and E.F., of , the said E.F. having in open court admitted himself indebted to the said defendant in the sum of £ , it is ordered that all debts due and owing or accruing due from the said E.F. to the abovenamed defendant shall be attached to answer the said judgment debt.

And it is further ordered that the said E.F. do pay into court the sum of , being the amount of the debt due from him to the abovenamed defendant [*or* being so much of the debt due from him to the abovenamed defendant as is sufficient to satisfy the said judgment debt], on the day of

NOTE.—*This order must be varied to meet the case of the garnishee disputing the debt and also varied to meet the case of an ex parte application where no statement has been filed with the registrar.*

Summons in nature of scire facias upon a garnishee.

No. of Plaint,

In the County Court at
(Seal.)

Between A.B., plaintiff, [*address and description*],
and
C.D., defendant, [*address and description*].

Whereas the plaintiff, at a court holden at , on the day of 18 , obtained a judgment against C.D., of [*name, address, and description*], for the sum of , for and costs, which judgment remains

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unsatisfied: And whereas the plaintiff having filed an affidavit stating that you are indebted to the said C.D., you are hereby summoned to appear at a court holden at , on the day of 18 at the hour of in the noon, to show cause why an order should not be made upon you for the payment of the amount of the said judgment, or so much thereof as shall equal the amount of the debts due and owing and accruing from you to the said C.D.

And take notice that from and after the service of the summons upon you all such debts are attached to answer the said judgment.

And further, take notice that if you shall pay to the registrar of this court the amount of such debts, or so much thereof as will satisfy the judgment debt, you will incur no costs.

Registrar of the court.

To the defendant.

Judgment against garnishee who disputes the debt.

No. of Plaint,

In the County Court at

(Seal.)

Between A.B., plaintiff, [*address and description*],

and

C.D., defendant, [*address and description*].

Whereas the plaintiff, at a court holden at , on the day of 18 , obtained a judgment against C.D., of for the sum of £ , for and for costs, and which judgment remains now unsatisfied: And whereas the plaintiff having filed an affidavit stating that the defendant was indebted to the said E.F., the defendant was summoned to show cause why he should not be ordered to pay the amount of the said judgment, or so much thereof as should equal the amount of the debts due and owing and accruing from him to the said E.F.; and the defendant having failed to appear before the court this day [*or* appeared before the court this day, and having failed to show cause why he should not be ordered to pay such debts, *or* having shown sufficient cause why he should not be ordered to pay such debts]:

It is ordered that the plaintiff do recover against the defendant the sum of £ [*here insert the amount of the judgment debt, or so much thereof as the debts amount to when the same are less than the judgment debt*], and £ for costs, amounting together to the sum of £ [*or* that the plaintiff do pay the sum of £ for defendant's costs].

It is ordered that the defendant [*or* plaintiff] do pay the same to the registrar of the court on the day of 18 , [*or, where judgment for plaintiff, and the judge so order*, by instalments of for every days; the first instalment to be paid on the day of 18].

Given under the seal of the court this day of 18 .

By the court,

Registrar of the court.

Execution against garnishee.

Whereas on the day of 18 it was ordered that E.F. should pay into court the sum of £ , being the [*or* so much of the] amount of debts found due from him to C.D., of [*here insert address and description*], a judgment debtor of A.B. [*or* as is sufficient to satisfy the judgment of the said A.B.]; and whereas default has been made in payment according to the said order: These are therefore [*the same as in ordinary executions*].

[*This form is to be issued by inserting the word "unless" after the word "that," in the second line, to meet the case of an order where no plaint summons has been necessary.*]

Application for Judgment Summons.

No. of Plaint,

In the County Court at

A.B., plaintiff.

C.D., defendant.

I apply for the issue of a judgment summons against the said defendant, and I state that I rely upon the following grounds for obtaining an order of commital of the judgment debtor; that is to say:—

That the judgment debtor contracted the said debt by means of any fraud or breach of trust.

That the judgment debtor has made a gift, delivery, or transfer of part of his property with intent to defraud his creditors.

That the judgment debtor has changed, *or* removed, *or* concealed part of his property, with intent to defraud his creditors.

That the judgment debtor is about to leave the colony, *or* to leave his present residence, with intent to evade payment.

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That the judgment debtor has had, since the judgment was obtained against him, sufficient means and ability to pay the sums directed to be paid under the judgment.

And I undertake to prove to the satisfaction of the judge at the hearing, that the judgment debtor has been able since the judgment to pay the amount ordered by the court as it became due.

I am aware that if I do not prove the same accordingly that I shall have to pay the costs of this summons.

A.B., judgment creditor.
Or
X.Y., practitioner appearing for judgment creditor.

ORDER FOR SPECIAL COMMITMENT ON EX PARTE APPLICATION.

In the County Court at

A.B., plaintiff, C.D., defendant. } Plaint No.

Whereas the said court did on the day of order that the said defendant, C.D., should pay to said plaintiff, A.B., the sum of , and the said sum is wholly due and unpaid: And whereas the said A.B. hath this day made proof by affidavit [*here state the special emergency*]:

Now therefore I, the judge of the said court, do order that unless the said shall pay into the said court forthwith the sum of , he shall be committed to prison for the period of

Given under my hand and the seal of the said court this day of One thousand eight hundred and

Judge of the said court.

CERTIFICATE FOR DISCHARGE.

To the keeper of the gaol at

Whereas by virtue of a warrant issued out of the County Court at , and dated the day of , was committed to the said gaol to be therein kept by you according to the exigency of the said warrant:

This is therefore to certify that the said has paid the moneys mentioned in the said warrant and all subsequent costs, and is now entitled to be discharged out of custody.

Given under my hand and the seal of the said court this day of

Registrar of the said court.

ORDER FOR DISCHARGE.

[*Law, Equity, or Probate, as case may be.*]

Plaint No.

To the keeper of the gaol at

Whereas by virtue of a warrant issued out of the County Court at , and dated the day of , was committed to the said gaol, to be kept therein by you, according to the exigency of the said warrant:

Now therefore, under the special circumstances of this particular case, I do direct that the said shall be forthwith discharged from custody, under the said warrant.

Given under my hand and the seal of the said court this day of

Judge of the said court.

INFANT PLAINTIFFS.

Undertaking of next friend of infant to be responsible for defendant's costs.

In the County Court at No. of Plaint,

I, the undersigned , being the next friend of A.B., who is an infant, and who is desirous of entering a plaint in this court against C.D. of *&c.*, hereby undertake to be responsible for the costs of the said C.D. of *&c.*, in such cause, and that if the said A.B. fail to pay to the said C.D., when and in such manner as the court shall order, all such costs of such cause as the court shall direct him to pay to the said C.D. I will forthwith pay the same* registrar of the court.

* *Sic.*

Dated this day of 18 .

JUDGMENT AGAINST EXECUTOR.

The nature of the levy to be made under judgment shall be entered in general terms in the register, as for example, "*de bonis testatoris si, &c., et si non de bonis propriis,*" [or] "as to the costs *de bonis testatoris si, &c., et si non de bonis propriis,* and as to the whole or residue of demand judgment of assets *quando acciderint.*"

SUMMONS TO AN EXECUTOR OF PLAINTIFF'S INTENTION TO APPLY TO THE COURT WHERE ASSETS HAVE COME TO DEFENDANT'S HANDS SINCE JUDGMENT.

No. of Plaint,

In the County Court at
(Seal.)

Between A.B., plaintiff, [*address and description*]
and
C.D., executor [*or* administrator] of deceased, defendant, [*address and description*].

The plaintiff having learnt that property of the deceased has come to your (the defendant's) hands as executor [*or* administrator] since the judgment herein to be administered [and that you have withholden and wasted the same], intends to apply to the court to be holden on the day of 18 , at the hour of in the noon, for an order that the debt [*or* damages], and costs shall be levied of the goods and chattels of the said deceased, if you have so much thereof to be administered [and that if you have not, then that it shall be levied of your proper goods and chattels], and that the costs be levied of your proper goods and chattels.

You are therefore hereby summoned to appear at the said court at the time and place aforesaid to answer touching the matters aforesaid.

To the executor or administrator of the deceased.

WARRANTS OF EXECUTION IN ACTIONS AGAINST EXECUTORS.

The form of warrant given in Schedule VI. of the Act is to be used, varied to meet each case in accordance with the particular judgment as to the nature of the levy to be made.

FORMS IN SUITS AND PROCEEDINGS UNDER PART III. OF THE ACT.—EQUITY.

GENERAL FORM OF HEADING AND CONCLUSION FOR PETITIONS AND PROCEEDINGS IN EQUITY.

In the County Court at

In the matter of the petition of A.B., of *&c.* [*address and description*].

This petition was filed by , of , practitioner engaged on behalf of the plaintiff , or by

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GENERAL FORM OF HEADING FOR AND CONCLUSION FOR DECRETAL ORDER, OR DECREE OR ORDER, OR ORDERS OF COMMITTAL.

No of Plaint or Proceeding

In the County Court at , on the day of

Upon the hearing this day of Mr. for the plaintiff, and upon the hearing of Mr. for the defendant [*or, if some of the defendants do not appear, then* for the defendants C.D., *&c.*, and no one appearing for the defendants E. and F.] it is ordered * * * * * * * * * *

Given under the seal of the court this day of

By the court, G.F.B., Registrar.

Take notice that unless you obey the directions contained in this order obedience thereto will be enforced in such manner as the law provides.

PLAINT SUMMONS IN EQUITY.

No.

In the County Court at

To C.D., of, *&c.*, [*insert defendant's name, address, and occupation; and, if sued in representative character, state character in which sued*].

You are hereby summoned to appear at the County Court at , on the day of 18 , at ten o'clock in the forenoon of the same day precisely, to answer the plaint of A.B. [*insert name of plaintiff*], who resides at [*insert place of residence and occupation, and, if suing in representative character, the character in which he sues*], to show cause why the relief prayed for in the following plaint should not be granted [*here insert the plaint, examples of which follow this form, to all of which add prayer for general relief*]. And take notice that if you do not attend, either in person or by a barrister or attorney retained by you, at the time and place above mentioned such decree or order will be made and proceedings taken as the judge may think just.

Dated the day of 18 .

Registrar of the court.

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EXAMPLES OF PLAINTS.

ADMINISTRATION.

[Clause 1 of Section 100 of the Act.]

By Creditor.

The plaintiff states as follows:—

1. E.F., late of , was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of [*here insert nature of debt and security, if any*].

2. The said E.F. duly made his last will, dated the day of , and thereof appointed C.D. executor [*or* devised his estate in trust, *&c., or* died intestate, *as the case may be*].

3. The said will was duly proved by the said C.D. [*or* letters of administration were granted, *&c*].

4. The defendant has possessed himself of the personal [and real *or* the proceeds of the real] estate of the said E.F., and has not paid the plaintiff his said debt.

5. The said E.F. died on or about the day of .

6. The whole of the personal [and real] estate of the said E.F. does not exceed in amount [*or* value] the sum of £500.

7. The plaintiff prays that an account may be taken of the personal [and real] estate of the said E.F., deceased, and that the same may be duly administered under the decree of the court, and for such further or other relief as the court may think fit.

By Legatees (Specific).

Omit paragraph 1, and commence paragraph 2—

E.F., late of , duly made his last will, dated the day of , and thereof appointed C.D. executor, "and by such will bequeathed to the plaintiff [*here state the specific legacy*]."

For paragraph 4 substitute—

The defendant is in possession of the personal estate of the said E.F., and, *inter alia*, of the said [*here name the subject of the specific bequest*].

For the commencement of paragraph 7 substitute—

The plaintiff prays that the defendant may be ordered to deliver to him the said [*here name the subject of the specific bequest*], or that, *&c.*

By Legatees (Pecuniary).

Omit paragraph 1, and substitute for paragraph 2—

E.F., late of , duly made his last will, dated the day of , and thereof appointed C.D. executor, and by such will bequeathed to the plaintiff a legacy of £

In paragraph 4 substitute "legacy" for "debt."

By Legatees (Residuary).

Omit paragraph 1, and substitute for paragraph 2—

E.F., late of , duly made his last will, dated the day of , and thereof appointed C.D. executor, and by such will bequeathed to the plaintiff the residue [*or* a part of residue] of his personal [*or* and the proceeds of his real] estate.

In paragraph 4 substitute "the residue [*or* share of residue] so bequeathed" for "said debt."

Next of Kin.

For paragraphs 1, 2, 3, and 4, substitute—

1. E.F., late of , was at the time of his death possessed and entitled of personal estate.

2. He died on or about the day of , intestate.

3. Letters of administration were duly granted to the defendant, and he has possessed himself of the personal estate of the deceased [*leave out* "letters of administration were duly granted to the defendant and that" *if none have been granted*].

4. That the plaintiff is next of kin [*or* one of the next of kin] of the said E.F.

EXECUTION OF TRUSTS.

[Clause 2 of Section 100 of the Act.]

In a suit by a trustee to have trust administered by the court.

The plaintiff states as follows:—

1. He is one of the trustees under a deed of settlement, bearing date on or about the day of , made upon the marriage of the said E.F. and G.H., the father and mother of the defendant [*or* a deed of assignment of the estate and effects of E.F. for the benefit of C.D., the defendant, and other the creditors of E.F.].

2. The said A.B. has taken upon himself the burden of the said trust, and is seized of [*or* in possession of *or* of the proceeds of] the lands, tenements, and hereditaments [goods and chattels], conveyed [*or* assigned] by the before mentioned deed.

3. The trust estate does not exceed in amount [*or* value] the sum of £500.

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4. The said C.D. claims to be entitled to a beneficial interest under the before mentioned deed.

5. The plaintiff is desirous to account for all the rents and profits of the said lands, tenements, and hereditaments [and the proceeds of the sale of the said *or* part of the said lands, tenements, and hereditaments, *or* goods and chattels, *or* the proceeds of the sale of, *or* part of the said goods and chattels, *or* the profits accruing to the plaintiff as such trustee in the execution of the said trust]: and he prays that the court will take the accounts of the said trust, and also that the whole of said trust estate may be administered in the court for the benefit of the said C.D., the defendant, and all other persons who may be interested in such administration, in the presence of the said C.D., and such other persons so interested as the court may direct, or that the said C.D. may show good cause to the contrary.

[*N.B.—Where the suit is by a cestui-que the plaint may be modelled, mutatis mutandis, on the plaint by a legatee, and if breach of trust is alleged by way of wilful default or otherwise, the plaints shall shortly state the circumstances and pray for consequential relief.*]

Foreclosure.

[Clause 3 of Section 100 of the Act.]

The plaintiff states as follows:—

1. By an indenture of mortgage bearing date on or about the day of 18 , a freehold [copyhold *or* leasehold] cottage, with the garden and appurtenances, at [*give general description*] were conveyed [*or* assigned] by the defendant to him the plaintiff, his heirs, [*or* executors, administrators] and assigns, for securing the principal sum of £ , together with interest thereon after the rate of £5 per centum per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.

2. There is now due from the defendant to the plaintiff the sum of £ for principal and interest on the said mortgage.

3. The plaintiff prays that the court will order the defendant to pay him the said sum of £ , with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the court, and in default that the equity of redemption of the said mortgaged premises may be foreclosed, or that the said premises may be sold, and the proceeds applied in and towards the payment of the said principal, interest, and costs; and he prays that for that purpose all proper directions may be given and account taken by the court.

Redemption.

Transpose parties and also the facts in paragraph 1.

For paragraph 2 substitute—

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of £ , which the plaintiff is ready and willing to pay to the defendant, of which the defendant before filing this plaint had notice.

For paragraph 3 substitute—

The defendant prays that he may redeem the said premises, and that the defendant may be ordered to reconvey [*or* reassign] the same to him upon payment of the said sum of £ and interest, with such costs as the court may order (if any), upon a day to be named by the court, and that the court will give all proper directions for the preparation and execution of such reconveyance [*or* assignment], and doing such other acts as may be necessary to put him into possession of the said premises freed from the said mortgage.

Specific Performance.

[Clause 4 of Section 100 of the Act.]

The plaintiff states as follows:—

1. By an agreement dated the day of and signed by the abovenamed defendant, C.D., he the said C.D. contracted to buy of [*or* sell to] him certain property, therein described and referred to, for the sum of £ .

2 He has applied to the said C.D. specifically to perform the said agreement on his part, but that he has not done so.

3. The said A.B. has been and still is ready and willing specifically to perform the agreement on his part, of which the said C.D. has had notice.

4. The plaintiff prays that the court will order the said A.B. specifically to perform the said agreement, and to do all acts necessary to put the said A.B. in full possession of the said property [*or* to accept a conveyance and possession of the said property], and to pay the costs of the suit.

[*N.B.—In suit for delivery up to be cancelled of any agreement, omit paragraphs* 2 *and* 3, *and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled, such as that the plaintiff signed it by mistake, under distress, or by the fraud of the defendant, and alter the prayer according to the relief sought.*]

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PARTNERSHIP.

[Clause 7 of Section 100 of the Act.]

The plaintiff states as follows:—

1. He and the said C.D., the defendant, have been for the space of years [*or* months] last past carrying on business together at , under certain articles of partnership in writing, signed by them respectively [*or* under a certain deed sealed and executed by them respectively, *or* under a verbal agreement between them, the said plaintiff and defendant].

2. Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The whole of the property, stock, and credits of such partnership do not exceed in value the sum of £500.

4. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [deed *or* agreement].

5. The plaintiff prays the court to decree a dissolution of the said partnership, and that the accounts of the said partnership trading may be taken by the court, and the assets thereof realized, and that each party may be ordered to pay into court any balance due from him upon such partnership account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid out of the partnership assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles [deed *or* agreement], or that if the said assets shall prove insufficient, he the plaintiff, and the said defendant, may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment of and discharge of such debts, liabilities, and costs, and to give such other relief as the court shall think fit.

[*N.B.—In suits for winding up of any partnership, omit the prayer for dissolution; but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.*]

DEFENDANT'S ADMISSION.

I, the undersigned defendant, admit the truth of the allegations in the plaint, and hereby submit to the judgment of the court thereon.

(Signed) C.D., defendant.

Signed in the presence of

[This paper marked A is the paper referred to in annexed affidavit.]

AFFIDAVIT OF SIGNATURE TO DEFENDANT'S ADMISSION.

I, of , an attorney or barrister of the Supreme Court, make oath and say, that I was present on the day of One thousand eight hundred and sixty- and did see the abovenamed C.D., the defendant, sign the statement hereunto annexed, marked with the letter A, and that the name set to the said statement is in the handwriting of the defendant, and that the name set to the said statement as the witness attesting the same is in my handwriting.

DECRETAL ORDER.—ADMINISTRATION SUIT.

It is ordered that the following accounts and inquiries be taken and made [*state whether by court, judges, or registrar*], that is to say—

In creditor's suit.

1. That an account be taken of what is due to the plaintiff and all other the creditors of the deceased.

In suits by legatees.

An account be taken of the legacies given by the testator's will.

In suits by next of kin.

An inquiry be made and account taken of what, or of what share, if any, the plaintiff is entitled to as next of kin [*or* one of the next of kin] of the intestate.

[*After the first paragraph, the decretal order will, where necessary order, in a creditor's suit, inquiry and accounts for legatees, devisees, heirs-at-law, and next of kin. In suits by claimants other than creditors, after the first paragraph, in all cases an order to inquire and take an account of creditors will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.*]

3. An account of the funeral and testamentary expenses.

4. An account of the personal estate of the deceased come to the hands of the defendant, or to the hands of any other person by his order or for his use.

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5. An inquiry what part (if any) of the personal estate of the deceased is outstanding and undisposed of.

6. And it is further ordered that the defendant do, on or before the day of next, pay into court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the registrar shall find it necessary for carrying out the objects of the suit to sell any part of the personal estate of the deceased, that the same be sold accordingly.

8. And that Mr. be receiver in the suit [*or* proceeding], and receive and get in all outstanding debts and outstanding personal estate of the deceased, and pay the same into the hands of the registrar [and shall give security by bond for the due performance of his duties to the amount of £].

9. And it is further ordered that, if the personal estate of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made and accounts taken; that is to say—

10. That an inquiry be made what real estate the deceased was seized of or entitled to at the time of his death.

11. What are the incumbrances (if any) affecting the real estate of the deceased, or any part thereof.

12. An account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

13. And that the real estate of the deceased, or so much thereof as shall be necessary to make up the fund in court sufficient to carry out the object of the suit, be sold, with the approbation of the judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

14. And it is ordered that shall have the conduct of the sale of the real estate, and shall prepare the conditions and contracts of sale, and the abstract of title, subject to the approval of the registrar; and that in case any doubt or difficulty shall arise, the papers shall, with the like approval, be submitted to , esquire, to settle.

15. And it is further ordered that, for the purpose of the inquiries hereinbefore directed, the registrar shall advertise in the newspapers according to the practice of the court, or shall make such inquiries in any other way which shall appear to the registrar to give the most useful publicity to such inquiries.

16. And it is ordered that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the day of , and that the registrar do certify the result of the inquiries and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of .

17. And lastly, it is ordered that this suit [*or* matter] stand adjourned for making a final decree to the day of .

[*This decretal order will be varied to suit each particular case.*]

DECRETAL ORDER FOR REFERENCE IN FORECLOSURE SUIT BY LEGAL MORTGAGEE.

It is ordered that it be referred to the registrar to take an account of what is due to the plaintiff for principal and interest on the mortgage mentioned in the plaint (making allowance on one side or the other for any rents or profits received by the plaintiff, and for any sums of money lawfully expended by the plaintiff about the mortgaged premises), and to tax the plaintiff's costs of this suit, and that the registrar do certify to the court, on the day of , what he shall find to be due for principal and interest as aforesaid, and for costs: And upon the defendant paying into court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within [*one month*] after the registrar shall have presented his certificate, it is ordered that the plaintiff do reconvey the said mortgaged premises, free and clear from all incumbrances done by him, or any claiming by, from, or under him, and do deliver up to the registrar all deeds and writings in his custody or power relating thereto, and that upon such reconveyance being made, and deeds and writings being delivered up, the registrar shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest, and costs; but in default of the defendant paying into court such principal, interest, and costs as aforesaid by the time aforesaid, then it is ordered that the defendant do stand absolutely debarred and foreclosed of and from all equity of redemption of, in, and to the said premises, and the registrar is to settle the conveyance if the parties differ about the same; and it is further ordered that, after the expiration of the said [*one month*], the plaintiff shall be at liberty to apply to the court for a final decree for the foreclosure of the said mortgage.

[*N.B.—Where the state of the account is ascertained at the first hearing, instead of the order of reference to the registrar, begin*—It is declared that the sum of £ is now due to the plaintiff for principal and interest on the mortgage mentioned in the plaint, and it is ordered that the registrar do tax the plaintiff's costs of this suit, and that].

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DECRETAL ORDER OF SALE IN A SUIT BY A LEGAL OR EQUITABLE MORTGAGEE OR PERSON ENTITLED TO A LIEN.

It is ordered that it be referred to the registrar to take an account of what is due to the plaintiff for principal and interest on the mortgage [*or* equitable mortgage *or* lien] mentioned in the plaint, and to tax the plaintiff's costs of this suit, and that the registrar do certify to the court on the day of , what he shall find to be due for principal and interest as aforesaid, and for costs: And upon the defendant paying into court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within [*one month*] after the registrar shall have presented his certificate, it is ordered that the plaintiff [do reconvey the said mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from, or under him, and] do deliver up to the registrar all deeds and writings in his custody or power relating thereto, and that upon such reconveyance being made, and deeds and writings being delivered up, the registrar shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest, and costs; but in default of the defendant paying into court such principal, interest, and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [*or* the premises subject to the said equitable mortgage or lien] be sold with the approbation of the registrar: And it is ordered that the money to arise by such sale be paid into court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest, and costs as aforesaid, and that the balance (if any) shall be paid to the defendant.

DECRETAL ORDER.—DISSOLUTION OF PARTNERSHIP.

It is declared that the partnership in the plaint mentioned between the plaintiff and defendant ought to stand dissolved as from the day of , and it is ordered that the dissolution thereof as from that day be advertised in the *Government Gazette, &c.*

And it is ordered that be the receiver of the partnership estate and effects in this suit, and do get in all the outstanding book debts and claims of the partnership.

And it is ordered that the following accounts be taken:—

1. An account of the credits, property, and effects now belonging to the said partnership.

2. An account of the debts and liabilities of the said partnership.

3. An account of all dealings and transactions between the plaintiff and defendant from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts.

And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises, and that the registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties are to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken, and all the other acts required to be done be completed, before the day of , and that the registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

And lastly it is ordered that this suit stand adjourned for making a final decree to the day of

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FINAL DECREE FOR FORECLOSURE.

Whereas it appears to the court that the defendant has not paid into court the sum , which was on the day of last certified by the registrar to be due to the plaintiff for principal and interest upon the mortgage in the plaint mentioned, and for costs, pursuant to the decretal order made in this suit on the day of last, and that the period of [*one month*] has elapsed since the said day of :

It is ordered that the defendant do stand absolutely debarred and foreclosed of and from all equity of redemption of, in, and to the said mortgaged premises.

PARTNERSHIP.

Final Decree.

It is ordered that the fund now in court, amounting to the sum of £ be applied as follows:—

1. In payment of the debts due by the partnership set forth in the registrar's certificate, amounting in the whole to £ .

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2. In payment of the costs of all parties in this suit, amounting to £ . [*These costs must be ascertained before the decree is drawn up.*]

3. In payment of the sum of £ to the plaintiff as his share of the partnership assets, and of the sum of £ , being the residue of the said sum of £ now in court, to the defendant as his share of the partnership assets.

[*Or*, And that the remainder of the said sum of £ be paid to the said plaintiff [*or* defendant] in part payment of the sum of £ certified to be due to him in respect of the partnership accounts.

And that the defendant [*or* plaintiff] do, on or before the day of , pay to the plaintiff [*or* defendant] the sum of £ , being the balance of the said sum of £ due to him which will then remain due].

NOTICE OF DECRETAL ORDER TO ABSENT PARTY.

Take notice that, on the day of , the decree of which a copy is hereunto annexed was made in this cause, and that from the service of this notice you will be bound by the proceedings in the above cause in the same manner as if you had been originally made a party to the suit, and that you may attend the proceedings under the said decretal order, and that you may apply to the court to add to the decretal order.

Dated this day of 18 .

Registrar

To

NOTICE TO CREDITOR TO PROVE HIS CLAIM.

You are hereby required to prove the claim sent in by you against the estate of A.B., deceased, by filing such affidavit as you may be advised in support thereof, and by giving notice thereof to me, on or before the day of next, and by attending at my office on the day of 18 , at o'clock in the noon, being the time appointed for adjudicating on the claim.

Dated this day of 18 .

Registrar.

To

NOTICE TO CREDITOR OF ALLOWANCE OF CLAIM.

The claim sent in by you against the estate of A.B., deceased, has been allowed at the sum of , with interest thereon at per cent. per annum, from the day of 18 , and for costs.

[*If part only allowed, add*, If you claim to have a larger sum allowed, you are hereby required to prove such further claim, by filing such affidavit as you may be advised in support thereof, and by giving notice thereof to me on or before the day of next, and by attending at my office on the day of 18 , at o'clock in the noon.

Dated this day of 18 .

Registrar.

REGISTRAR'S CERTIFICATE.

In obedience to the decretal order of this court made in the above suit, I hereby certify that the result of the accounts and inquiries [*or* of the sale and apportionment] which have been taken and made in pursuance of the made in this , dated the day of 18 , is as follows:—

The plaintiffs and defendants have attended by themselves or by their respective attorneys.

Notice of Decretal Order.

Notice of the said decretal order of the day of 18 , has been served upon .

The persons so served include all the now living and the personal representatives of such of them as are dead, except such as are parties to this suit, and except hereinafter named .

Service of notice of the said decretal order upon the said was dispensed with.

Personal Estate Account.

The defendant , the executor [*or* administrator] of the testator [*or* intestate] named in the said , have received personal

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estate to the amount of £ , and they have paid or are entitled to be allowed on account thereof sums to the amount of £ , leaving a balance due from [*or* to] them of £ on that account.

References to Account.

The particulars of the above receipts and payments appear in the account marked A, verified by the affidavit of the said defendant filed the day of , and the account marked B, verified by the affidavit of filed the day of , and which accounts are to be filed with this certificate.

Variations from Accounts.

Except that in addition to the sums appearing in such account to have been received, the said defendant [*or* plaintiff] is [*or* are] charged with the following sums (that is to say), £ , and except that of the items of disbursement in the said account I have disallowed those numbered , and I have deducted from the item numbered , the sum of £ , and from the item numbered the sum of £ , and in addition to the disbursements appearing in such account the said defendant ha paid and been allowed the sum of £ .

Special Allowances in Accounts.

The payments allowed to the said defendant [*or* plaintiff] in the said account include the sum of £ paid into court to the credit of this cause, on the day of 18 .

Reference to Transcript of Account.

The before mentioned account, marked A, has been altered, and the account marked A B, and which is also to be filed with the certificate, is a transcript of the said account marked A as altered and passed.

No Personal Estate received.

The defendant , the executor [*or* administrator] of the testator [*or* intestate] named in the said , have not, nor hath any or either of them, or any person or persons by their or any or either of their order, or for their or any or either of their use, received any part of the personal estate of the said testator [*or* intestate].

Funeral Expenses.

The funeral expenses of the testator [*or* intestate], amounting to the sum of £ have been paid and are allowed the defendant [*or* plaintiff] , the executor [*or* administrator] of the said testator [*or* intestate], in the said account of personal estate [hereinafter mentioned].

Debts.

The debts of the testator [*or* intestate, including the plaintiff's] which have been allowed are set forth in the schedule hereto, and, with the interest thereon and costs mentioned in the said schedule, are due to the plaintiff and the other persons named therein, and amount altogether to . No other person has been allowed, or come in and proved, any debt against the estate of the said testator [*or* intestate], and the time fixed by advertisement for that purpose has expired.

Such of the said debts as are specialty are set forth in the first part of the said schedule, and amount to £ ; such as are simple contract are set forth in the second part of said schedule, and amount to £ .

Interest on Debts.

The interest on such debts is computed down to the date of this certificate, and after the rate of £4 per centum per annum, from the day of 18 , the date of the said decretal order, unless otherwise specified in the said schedule.

Legacies and Annuities.

The legacies given by the testator, other than annuities, are set forth in the first part of the schedule hereto, and, with the interest therein mentioned, remain due to the persons therein named, and amount altogether to £ .

The annuities given by the testator, with the arrears due thereon, are set forth in the second part of the said schedule. Such arrears amount to £ .

Interest on Legacies.

The interest on such legacies is computed down to the date of this certificate, and after the rate of £4 per centum per annum, from the day of 18 , the end of one year after the testator's death, unless otherwise specified in the said schedule.

The arrears of the annuities are computed to the date of this certificate, and from the testator's death, unless otherwise specified in the said schedule.

Outstanding Estate.

The personal estate of the said testator [*or* intestate] [not specifically bequeathed] outstanding or undisposed of consists of the particulars set forth in the schedule hereto.

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Real Estate.

The real estate which the said testator [*or* intestate] was seized of or entitled to or consists of the particulars set forth in the schedule hereto.

Incumbrances on Real Estate.

The incumbrances affecting the testator's [*or* intestate's] real estate are specified in the schedule hereto.

Rents and Profits Account.

The defendants [or plaintiff] , the trustee named in the said decretal order, have received rents and profits of the testator's real estate to the amount of £ , and they have paid or are entitled to be allowed on account thereof sums to the amount of £ , leaving a balance due from [*or* to] them of £ on that account.

No Rents and Profits Received.

The defendants [*or* plaintiff] , the trustees named in the said decretal order, have not, nor hath any or either of them, or any person or persons by their or any or either of their order, or for their or any or either of their use, received any sum or sums of money on account of the rents and profits of the testator's [or intestate's] real estate.

Next of Kin.

The next of kin, according to the statutes for the distribution of the effects of intestates, of , the intestate named in the said living at the time of his death were , of whom the said have since died

The legal personal representative of the said

The legal personal representative of the said

The legal personal representative of the said

Dated this day of .

Registrar.

NOTICE THAT REGISTRAR'S CERTIFICATE MAY BE INSPECTED.

Take notice that the certificate of the result of the inquiries made and accounts taken by me under the decretal order of this court made on the day of , in this cause, lies in my office, and can be inspected by you up to and inclusive of the day of [*here insert the day before the cause is to be further heard*].

To Registrar.

BOND TO BE GIVEN BY RECEIVER.

Know all men by these presents that we, A.B., of, *&c.*, and C.D., of, *&c.*, and E.F., of, *&c.*, are jointly and severally held and firmly bound to G.H., Registrar of the County Court of , holden at , in £ , to be paid to the said G.H., or his certain attorney, executors, administrators, or assigns: For which payment to be made we bind ourselves, and each and every of us, in the whole, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this day of One thousand eight hundred and .

And whereas a plaint in equity has been filed in this court by A.B. against C.D. for the purpose of [*here insert object of suit*].

And whereas the said A.B. has been appointed, by order of the above mentioned court, to receive the rents and profits of the real [*or* freehold or copyhold *or* leasehold] estate [*or* estates] [and to get in the outstanding personal estate] of C.D., the testator in the said plaint named:

Now the condition of this obligation is such, that if the above bounden A.B. do and shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the real estates, and in respect of the personal estate, of the said C.D. [*or as may be*] at such periods as the said court shall appoint, and do and shall duly pay the balances which shall from time to time be certified to be due from him as the said court hath directed or shall hereafter direct, then this obligation shall be void and of none effect, otherwise shall remain in full force and virtue.

A.B. (L.S.)
C.D. (L.S.)

Signed, sealed, and delivered by the above bounden in the presence of

NOTE.—*If deposit of money be made the memorandum thereof should follow the terms of the condition of the bond.*

WARRANT OF ASSISTANCE.

Whereas, according to the tenor and true meaning of a decree [*or* an order] bearing date the day of 18 , made in the matter of this suit,

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the said defendant, C.D., was ordered to deliver up possession to A.B. in the said order named of all that, &c. [*as in order*] : And whereas a copy of such decree [*or* order] was duly served upon the said C.D., yet nevertheless he the said C.D., and other ill-disposed persons, his accomplices, have refused to pay obedience thereto, and detain and keep the possession of the said house [*or* tenement and premises] : These are, therefore, to authorize and require you to forthwith enter into and upon the said messuage [*or* tenement and premises], and that you do remove, eject, and expel the said C.D., his tenants, servants, and accomplices, each and every of them, out of and from the said messuage [*or* tenement and premises] and every part and parcel thereof, and that you do place and put the said A.B. and his assigns into the full, peaceable, and quiet possession thereof, and defend and keep him and his said assigns in such peaceable and quiet possession when and as often as any interruption may or shall from time to time be given or offered to them or any of them, according to the true intent and meaning of the said order ; and herein you are not in anywise to fail.

Given under the seal of the court this day of 18 .

By the court.

Registrar.

To the bailiff of the said court.

Warrant of Possession.

Whereas, on the day of , 18 , this court did in the matter of this suit decree [*or* order] that you, the bailiff of this court, should [*or* that A.B. should] take possession of the goods and chattels of E.F., deceased, in the said suit mentioned, and which at the date of the said order were in the possession of the defendant [and sell and convert the same into money or keep and hold the same to abide the further order of the court, *as the case may be*].

These are therefore by virtue of the said decree [*or* order] and the statute in such case made and provided to will and require, authorize and empower, you and every one of you to whom this warrant is directed forthwith to enter into and upon the house and houses of the said C.D., and also in all other place or places belonging to the said C.D. where any of the goods or chattels, part of the estate of the said E.F., deceased, are suspected to be, and there to seize all the goods and chattels whatsoever belonging to the estate of the said E.F., deceased.

And in case of resistance, or of not having the key or keys of any door, or lock of any premises belonging to the said C.D., where any of the goods or chattels part of the estate of the said E.F. are suspected to be, you shall break open or cause the same to be broken open, for the better execution of this warrant.

Given under the seal of the court this day of 18 .

By the court,

Registrar.

To the bailiff of the said court.

Order of Revivor.

Upon application of [*here state by whom the application is made and the events which have happened rendering it necessary to apply*], I do order that this suit stand revived and be in the same plight and condition as the same was in at the time of the said abatement.

Dated this day of .

J.S., Judge.

Order in the nature of an Injunction.

The plaintiff undertaking [by his counsel *or* attorney] to abide by any order this court may make as to damages, in case this court shall hereafter be of opinion that the defendant shall have sustained any, by reason of this order, which the plaintiff ought to pay : Now, therefore, C.D., the defendant in this cause, his servants, agents, and workmen, are hereby strictly enjoined and restrained from pulling down or suffering to be pulled down the house being [Number 16 Wardell street, Collingwood], and from selling the materials whereof the said house is composed [*or* from entering into any contract or contracts, and from accepting, drawing, indorsing, or negotiating any bills or bill of exchange, notes, or note, or written securities or security, in the name of the partnership firm of , and from contracting any debts or debt, and buying and selling any goods, and from making or entering into any verbal or written promise, agreement, or undertaking, and from doing or causing to be done any acts or act in the name or on the credit of the said partnership firm, or whereby the said partnership firm can or may in any manner become or be made liable to or for the payment of any sums or sum of money, or for the performance of any contract, promise, or undertaking, *or, as the case may be*] until the day after the day upon which the cause shall be heard, or until

further order [*or* until the day of , upon which day this court will consider whether this order shall be further continued].

Dated this day of .

J.S., Judge.

If you, the said C.D. [your servants, agents, or workmen], act in disobedience to this order, you, the said C.D., will be liable to be committed by this court, and also be liable to have your estate sequestered.

NOTICE OF APPLICATION FOR COMMITTAL.

Take notice that the plaintiff, A.B., will on the day of , 18 , apply to this court for an order for your committal to prison for having disobeyed the order of this court made on the day of 18 , enjoining and restraining you [*or* for having neglected to obey the decree or order made on the day of 18 , requiring you] [*here set out the mandatory part of the decree or order*]; and further take notice that you are hereby required to attend the court on the first mentioned day, to show cause why an order for your committal should not be made.

Dated this day of 18 .

E.F., Registrar.

To C.D., the defendant.

ORDER OF COMMITTAL FOR BREACH OF AN ORDER IN THE NATURE OF AN INJUNCTION.

Whereas by an order of this court, dated the day of 18 , [*here recite the order*]: Now, upon the application of the plaintiff, and upon hearing the defendant [*or, if the defendant does not appear* reading the affidavit of X.Y., *or, where service has been by bailiff*, of L.M., a bailiff of this court *or* of the county court , holden at , showing, *or* being satisfied on oath, that a copy of the said order and notice of this application have been severally served upon the defendant C.D.] and upon reading the affidavit of, *&c.* [*enter evidence*], the court being of opinion, upon consideration of the facts disclosed by the said affidavit [*or* affidavits], that the said defendant, C.D., has been guilty of a contempt of this court by a breach of the said order, doth order that the said defendant C.D., do stand committed to [*here insert prison used by the court*] for his said contempt.

ORDER OF COMMITTAL FOR NEGLECT TO OBEY DECREE OR ORDER.

Whereas by a decree [*or* order] of this court dated the day of 18 , [*here recite the decree or order*]: Now, upon the application of the plaintiff, and upon hearing the defendant [*or, if the defendant does not appear*, reading the affidavit of X.Y., *or, where service has been by bailiff*, of L.M., a bailiff of this court *or* the county court of , holden at , showing, *or* being satisfied on oath that a copy of the said decree [*or* order] and notice of this application have been severally served upon the defendant, C.D.], and upon reading the affidavit of, *&c.* [*enter evidence*], the court being of opinion, upon consideration of the facts disclosed by the said affidavit [*or* affidavits], that the said defendant, C.D., has been guilty of a contempt of this court by neglecting to obey the said decree [*or* order], doth order that the said defendant, C.D., do stand committed to [*here insert prison used by the court*] for his said contempt.

WARRANT OF COMMITTAL.

To the bailiff of the said court and all peace officers within the jurisdiction of the said court, and to the governor or keeper of the [*here insert prison used by the court*].

Whereas by an order bearing date the day of , it was ordered that the defendant, C.D., should stand committed to prison for contempt of this court:

These are therefore to require you forthwith to arrest and apprehend the defendant, C.D., and him safely convey and deliver to the governor or keeper of the [*prison used by this court*], and you the said governor or keeper to receive the defendant, C.D., until further order of this court.

Dated this day of 18 .

E.F., Registrar of the court.

NOTICE OF APPLICATION FOR DISCHARGE FROM CUSTODY.

Take notice, that I intend, on the day of 18 , to apply to this court [*or* the registrar of this court] to discharge me from custody, I being desirous of clearing my contempt.

Dated this day of 18 .

C.D., defendant.

To A.B., plaintiff.

Rules.

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ORDER OF DISCHARGE FROM CUSTODY.

Upon application made this day of by , for the defendant, who was committed to prison for contempt, by order of this court dated the day of 18 , and upon reading the affidavit of the defendant filed the day of 18 , showing that he is desirous of clearing his contempt, and upon hearing , the plaintiff [*or, if no one appears for plaintiff, then* upon being satisfied that notice of this application has been duly served upon the plaintiff], this court [or I, the judge of this court] do hereby order that the said defendant be discharged out of the custody of the governor [*or* keeper] of [*here insert name of prison*] as to the said contempt, but not as to the costs of the said contempt.

Dated this day of 18 .

PETITION.

[Under Clause 5 of Section 100 of the Act.]

In the County Court holden at

In the matter of

The petition of A.B., of *&c.* [*address and description*].

Showeth—

1. That by a deed of settlement bearing date the day of , made upon the marriage of C.D. with E.F., certain freehold property in the settlement mentioned was conveyed to [*or* that C.D., deceased, by his will, bearing date day of , and proved on the day of , by your petitioner and G.H., in the Supreme Court of this colony, certain freehold property in the will mentioned was devised to] the petitioner, together with G.H., upon certain trusts, *inter alia* [*here set out the clause or portion of the trust deed or will upon which the order of the court is required*].

2. That the said G.H. died on or about the day of , leaving the petitioner surviving trustee.

3. That disputes and doubts have arisen under the clause before set out as to whether [*here set out the specific question upon which the opinion, advice, or direction of the court is required*].

4. That the trust estate [*or* fund] to which this proceeding relates does not exceed in value the sum of £500.

5. That the persons interested in this application are I.J., of *&c.* [*address and description*], K.L., of *&c.*

6. Your petitioner prays the court to declare its opinion, advice, or direction whether [*here state specific question which the court is asked to determine*].

This petition was filed by , of , for the plaintiff [*or* by].

In the County Court holden at

In the matter of

The petition of A.B., of *&c.* [*address and description*].

Showeth—

1 That C.D., deceased, by his will, bearing date the day of , and proved on the day of , by your petitioner and G.H., in the Supreme Court, certain freehold property in the will mentioned was devised to [*or*, that by a deed of settlement bearing date the day of , made upon the marriage of C.D. with E.F., certain freehold property in the settlement mentioned was conveyed to] the petitioner together with G.H., upon certain trusts.

2. That the said G.H. died on or about the day of , leaving the petitioner surviving trustee.

3. That the said trusts are still unexecuted, and that the petitioner is unable, by reason of having left the neighborhood [*or* his bodily infirmity, *or any cause for relinquishing trust*], *further to execute the said trusts*; that it is for the advantage of the parties beneficially interested in the due execution of the trust that new trustees be appointed by the court in the place of the petitioner.

4. That and , of *&c.*, [*address and description*] are proper persons to appoint as such trustees.

5. That I.J., of *&c.*, [*address and description*] and L.M., of *&c.* [*address and description*], are the persons beneficially interested in the said trust.

6. Your petitioner prays that the said and or some or other persons to be named by the court, be appointed trustees in his place and stead, and that the cost of the proceeding be ordered to be paid out of the trust fund, and to give such directions as may be necessary for executing such order.

This petition was filed by of , for the plaintiff, [*or* by].

Rules.
14 Sept. 1869.

PETITION.

[Under Clause 6 of Section 100 of the Act.]

In the County Court holden at

In the matter of

The petition of A.B., of &c., [*address and description*].

Showeth—

1. That he is guardian [*or* trustee] of C.D., an infant, and that by the will of E.F. a sum of £ was bequeathed to the petitioner, upon trust, to apply the income thereof to the maintenance and education of the said C.D. during his minority, and to pay the said principal sum of to the said C.D. upon his attaining the age of twenty-one years.

2. That the said C.D. is now of the age of fourteen years or thereabouts, and is now resident within the jurisdiction of this court, and the petitioner has heretofore spent the whole of the accruing interest upon his maintenance and education.

3. That in the opinion of your petitioner it would be greatly to the interest and advancement of the said C.D. if a sum of £ , part of the said principal money of £ , was now expended by the petitioner in payment to G.H. of , saddler, as a premium to the said G.H. to take and receive the said C.D. as his indoor apprentice.

4. The petitioner prays that he may direct him to use and appropriate the said sum of £ , part of the said principal trust money or sum of £ , for the apprenticeship of the said infant accordingly.

This petition was filed by , of , for the plaintiff [*or* by].

AFFIDAVIT.

[Under Section 106 of the Act.]

In the County Court holden at

In the matter of "The County Courts Statute 1869," and of [*add the title of the particular trust, as* "the trusts of a certain indenture of mortgage, dated the day of , and made between A.B and C.D."]

I, C.D., of [*address and description*], make oath and say as follows—

1. *State place for service, as*—My house being , is the place where I am to be served with any notice or application relating to the trust fund hereinafter mentioned.

2. *State the amount of money or stock proposed to be paid, or transferred, or security deposited in trust to attend the orders of the court, as*—Under the provisions of the said Act, I desire to pay into the Post Office Savings Bank the sum of hereinafter mentioned.

3. *Set out a short description of the trust and of the instrument creating it, as*—By the indenture before mentioned a certain messuage situate at , with the appurtenances, was mortgaged by the said A.B. to me, my heirs and assigns, for securing to me the repayment, on the day of 18 , of the sum of £ , with interest for the same at the rate of £ per cent. per annum; and the said indenture contained a power of sale in case of default in payment, and it was by the said indenture declared that the moneys to arise from any such sale should after retaining thereout the expenses of executing the said power and the said principal money and interest, be paid to the said A.B., his heirs or assigns.

The said A.B. died on or about the day of and by his will, dated the day of , appointed E.F., of * , executor thereof, and devised the said hereditaments, subject to the said mortgage, unto G.H., of * , and J.K., of * , in trust for the said E.F., for his life, and after his death upon certain trusts for sale, and for the division of the proceeds amongst the following persons, namely, the testator's son, M.N., of * , and his children or child, and the testator's daughter, O., the wife of P.Q., of * , and her children or child.

The said E.F. proved the said will in [*state in what court*], and is still living.

The said G.H. never acted in the trusts of the said will, &c.

On or about the day of , I sold the said hereditaments by public auction to X.Y., of [*address and description*], at the price of £ .

After retaining out of the said £ the costs of sale and the sum of , being the total amount of principal moneys and interest due upon the said mortgage and the sum of £ , being the costs of paying the fund into court, a balance of £ now remains in my hands, and the sum of £ , which I desire to pay into the Post Office Savings Bank in trust, to attend the orders of this court, is the said balance of £ .

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* Here insert present address and description. If the address of any person interested be unknown to the trustee, this fact must be set forth in the affidavit.

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4. *State the names of the persons interested in or entitled to the fund, to the best of the trustee's knowledge or belief, as—*

To the best of my knowledge and belief, the said G.H. and J.K. as such trustees as aforesaid, and the said E.F., M.N., and his children or child [*stating, if known, their names*], and O.P. and her children or child [*stating, if known, their names*], are the only persons interested in the said fund.

5. *Add submission to answer inquiries, as—*

I submit to answer all such inquiries relating to the application of the said fund of £ as the court may think proper to make or direct.

Sworn at, &c.

CERTIFICATE IN CASE OF MONEY.

In the County Court holden at
(Seal.)

In the matter of the "*County Courts Statute* 1869."
In the matter of the [*trusts of*].

I hereby certify that [*state name, address, and description of party making the application*] has this day filed with me, the registrar of this court, an affidavit entitled as above mentioned, with reference to a trust fund or sum of therein mentioned, which sum, as therein stated, he desires to pay into my name as such registrar as aforesaid into Bank, as provided by the above Statute.

Dated this day of .

Registrar of the court.

CERTIFICATE IN CASE OF TRANSFER OF STOCK.

In the County Court holden at
(Seal.)

In the matter of "*The County Courts Statute* 1869."
In the matter of this

I hereby certify that [*state name, address, and description of party making application*] has this day filed with me, the registrar of this court, an affidavit entitled as above mentioned, with reference to a trust fund of £ [*describe the stock*], which, as therein stated, he desires to transfer into the name of the registrar of this court, in the matter of the particular trust, to attend the order of the court, as provided by the above Act.

Dated this day of 18 .

Registrar of the court.

ACKNOWLEDGMENT OF FILING OF RECEIPT OR TRANSFER TICKET.

In the County Court at
(Seal.)

In the matter of "*The County Courts Statute* 1869"
and
In the matter of this

I hereby acknowledge that [*state the name, address, and description of the party giving to the registrar the receipt of the Post Office Savings Bank, or chartered bank, in the case of money, or the transfer ticket in the case of stock*] has this day delivered to me, the registrar of the court, a *receipt* dated [*name of officer of the Post Office Savings Bank or manager of bank*] for the sum of £ , which receipt is in words and figures following—

Registrar of the court.

CERTIFICATE OF DEPOSIT OF SECURITY.

In the County Court holden at
(Seal.)

In the matter of "*The County Courts Statute* 1869"
and
In the matter of this

I hereby certify that [*state the name, address, and description of the party depositing ith the registrar the security*] has this day deposited with me, the registrar of this court, in the name of myself, in the matter of [*here state particular trust and then state the nature of the security deposited*].

Registrar of the court.

Rules.

14 Sept. 1869.

NOTICE TO THE MINISTER AND TREASURER.

No.
In the County Court holden at
(Seal.)

In the matter of "*The County Courts Statute* 1869"
and
In the matter of this

Take notice that, on the day of [*state name, address, and description of party who has deposited the security*] under the said Act deposited with the registrar of this court, in the name of myself, in trust, to attend the orders of this court [*here describe security*].

Registrar of the court.

To the Honorable the &c.

NOTICE OF PAYMENT INTO POST OFFICE SAVINGS BANK OR CHARTERED BANK OR OF TRANSFER OF STOCK OR DEPOSIT OF SECURITY.

No.
In the County Court holden at
(Seal.)

In the matter of "*The County Courts Statute* 1869"
and
In the matter of this

Take notice that on the day of [*state name, address, and description of party who has paid in the money*] under the said Act paid into the Post Office Savings Bank or into the [*describe chartered bank*] at , in the name of me, the registrar of this court, the sum of £ , and in his affidavit filed in this court on the day of shortly described the instrument creating the trust, and stated the names of the persons interested in or entitled to the fund to the best of his knowledge and belief as follows, that is to say [*state from the affidavit the paragraph containing the names of the persons interested or entitled*] [*or*, "transferred into the name of the registrar of this court (*describe stock*), in trust, to attend the orders of this court, *or* deposited with me in the names of , of , and of me the registrar of this court, in trust, to attend the orders of this court (*here describe security*)"].

And further, take notice that any person interested or entitled to the said fund, may apply to this court respecting the investment, payment out, or distribution of the fund, or of the income thereof, according to the practice of the court.

Registrar of the court.

NOTICE TO PERSONS INTERESTED IN MONEY STOCK OR SECURITIES DEPOSITED WITH REGISTRAR.

[*Heading as in last form.*]

Take notice that, on the day of , [*state name, address, and description of party who has deposited the security*] under the said Act deposited with the registrar of this court, in my name, in trust, to attend the orders of this court [*here describe security*], in which fund you are stated on the affidavit filed in this matter to be interested.

Registrar of the court.

To Mr. , of

CASE UPON APPEAL IN LAW OR EQUITY.

[*Law or Equity, as the case may be.*]

In the County Court at

A.B., plaintiff,
C.D., defendant. } Plaint No.

The plaint in this cause is as follows [*here insert the plaint as set out in the plaint summons*].

[*If the cause has proceeded to a hearing, here state generally such interlocutory proceedings as may have relation to the cause at the hearing.*]

The cause came on for hearing at , the day of , before the judge [*or* before the judge and a jury, *or* , and the following issue of fact was directed by the judge to be tried before jury], when [*here state the course taken by the parties at the hearing and the result*].

The following is the evidence given at the hearing [*here state the evidence either as agreed to by the parties or as taken from the judge's notes, in the latter case with such comments (if any) as the judge under Rule* 3 *of Order V. shall think necessary*].

The plaintiff [*or* defendant, *as the case may be*] being dissatisfied with the said decision, has given notice of appeal to the Supreme Court, the grounds of such appeal being as follows [*here insert the grounds of appeal as served upon the opposite party*].

Rules. — 14 Sept. 1869.

We, the parties [*or* the counsel *or* attorneys of the respective parties] to this suit have agreed upon this case [*or* the parties, their counsel or attorneys, being unable to agree upon a case to be submitted to the Supreme Court].

I, the judge who heard the cause, have settled and signed this case, in accordance with the provisions of section 120 of the "*County Court Statute* 1869."

NOTE.—When appeal is against an interlocutory order, the statements in the case should be altered accordingly, the affidavits used being set out instead of the oral evidence at the hearing.

ROBERT WILLIAMS POHLMAN.
J. WARRINGTON ROGERS.
JOHN GEORGE FORBES.

Submitted to me, and published as directed by the "*County Court Statute* 1869."

J. J. CASEY,
Solicitor-General.

Crown Law Offices,
Melbourne, September 14 1869.

FEES UNDER THE COUNTY COURT STATUTE 1869.

At the Executive Council held at Toorak the eighth day of May 1871.

PRESENT:
His Excellency the Governor
Mr. Michie | Mr. MacPherson.

Order. — 8 May 1871.

WHEREAS by *The County Court Statute* 1869 it is amongst other things enacted that it shall be lawful for the Governor in Council to direct what amount of fees, and in respect of what steps taken, process issued, or duties performed, fees shall be taken in the county courts in such manner as to him shall seem fit, and from time to time to lessen or increase the same; and such fees may be regulated by way of percentage on the amount of the demand; and it shall be lawful for the Governor in Council from time to time to appoint, instead of all or any of the fees which may from time to time be payable as aforesaid, other fees by way of percentage or otherwise to be payable on such proceedings under the now reciting Act as the Governor in Council may direct: Now therefore His Excellency the Governor, with the advice of the Executive Council, doth by this present Order direct that the fees specified in the schedule hereto annexed shall be taken, in lieu of the fees now taken, in respect of the steps, process, or duties severally detailed in that schedule for proceedings in county courts; that in calculating the same every fraction of a pound or mile shall be reckoned as an entire pound or mile; and that this order shall come into operation on and after the first day of June now next ensuing, that is to say:—

SCALE OF FEES.

FEES AT COMMON LAW.

	£	s.	d.
For filing every plaint and issuing a summons thereon, and summons under section 56:—			
For any sum not exceeding £20	0	2	0
Above £20 and not exceeding £50	0	2	0
„ £50 „ £100	0	2	0
„ £100 „ £250	0	2	0
In actions of ejectment where the rent or annual value does not exceed £10	0	5	0
In actions of ejectment where the same exceeds £10	0	5	0

Order.
8 May 1871.

	£	s.	d.
For trial by consent :—			
Above £250 and not exceeding £500	1	0	0
„ £500 „ £1000	2	0	0
An additional sum of 10s. for every sum of £500, or part thereof, beyond the said sum of £1000.			
For other summonses, in addition to the bailiff's fees, where bailiff required to serve	0	2	0
Filing notice of special or equitable defence, or defence under section 56...	0	2	0
Upon payment of money into court, viz.:—			
Any sum not exceeding £20	0	2	0
Above £20 and not exceeding £50	0	2	0
„ £50 „ £100	0	2	0
„ £100 „ £250	0	2	0
For every notice of trial by jury, in addition to jury fees	0	10	0
For entering every judgment by consent or default :—			
For any sum not exceeding £20	0	2	0
Above £20 and not exceeding £50	0	4	0
„ £50 „ £100	0	6	0
„ £100 „ £250	0	10	0
For every new trial	0	10	0
For every certificate of the registrar, save under section 93	0	2	0
For a certificate under section 93	0	5	0
For every order of a court or judge	0	2	0
For every order of commitment or discharge	0	2	0
For every search	0	1	0
For filing and sealing every affidavit	0	1	0
For every affidavit or affirmation	0	1	0
Marking each exhibit	0	0	6
Office copies of any proceeding whatever, per folio of 72 words	0	0	6
For taxing every bill of costs :—			
Not exceeding three folios of 72 words	0	2	0
Exceeding three folios, per folio of 72 words additional	0	0	6
For warrant of execution or possession, in addition to the bailiff's fees :—			
Where the amount to be levied or value of property to be recovered does not exceed £20	0	2	0
Above £20 and not exceeding £50	0	2	0
„ £50 „ £100	0	2	0
„ £100	0	2	0
For warrant of replevin	0	5	0

Fees in Equity.

For every plaint or petition and summons thereon where there is no money demand	0	5	0
For any sum not exceeding £20	0	1	0
Above £20 and not exceeding £50	0	3	0
„ £50 „ £100	0	6	0
„ £100 „ £200	0	10	0
For every additional £100	0	5	0
For every suit or matter transferred to a county court	0	5	0
For a decretal order	0	6	0
For a final decree	0	10	0
For every taxation of costs	0	5	0
For filing and sealing affidavit for injunction on one only	0	10	0
For every other affidavit	0	1	0
For every search	0	1	0
For warrant of execution, the same as at common law.			
For every summons, except as above	0	2	0
For every notice to, or to be sent by, the registrar, and for every copy of same	0	2	0
On filing every admission or answer	0	5	0
On filing statement of defendant or notice of dismissal by plaintiff ...	0	5	0
For sealing order under section 105	0	5	0
For sealing every other order	0	2	0
For drawing advertisements and inserting (in addition to the amount paid)	0	5	0
For every sitting of the registrar taking accounts or evidence, or making inquiries, or acting as a special examiner	0	10	0
If for more than one hour, then for every additional hour	0	5	0
If at any place other than his office, mileage one way, per mile ...	0	1	0
For application to judge for further directions	0	5	0
For draft order on an *ex parte* application, and including the order afterwards made	0	10	0

Order.
—
8 May 1871.

	£	s.	d.
For certificate directed to be made by any decretal order	0	5	0
For sealing office copy of any document, per folio	0	0	6
For making and transmitting note of any decretal order or final decree ...	0	2	0
For auditing receiver's accounts, where the sum in account does not exceed £100	0	10	0
For every additional £50, or fraction thereof	0	3	0
For procuring investments in approved securities, one-fourth per cent. on the amount invested, exclusive of charges.			
For all matters respecting records for trial or other proceedings not included herein, fees according to the common law scale.			

FEES IN PROBATE AND ADMINISTRATION.

[*This jurisdiction is abolished, see note* (*a*) ante, *p.* 2810.]

FEES PAYABLE TO THE BAILIFF.

For the service of any summons, petition, notice, or order, if within two miles of the court-house	0	2	0
If the service is required to be personal, an additional fee of	0	5	0
For affidavit of service and sealing	0	2	0
For executing every warrant on any writ or process, for each, if the distance from the court or bailiff's residence does not exceed five miles	0	10	0
For man left in possession, per day	0	6	0
For every arrest within seven miles of the court-house	1	0	0
If exceeding seven miles	1	10	0
For every replevin bond	0	10	0
For delivering the goods under the same and returning warrant ...	0	10	0
For executing every warrant, serving summons, delivering goods in replevin, conducting prisoners to gaol, for any distance beyond those before mentioned from the court, a reasonable amount to be fixed by the registrar, not exceeding 2s. per mile, but not beyond expenses actually paid.			

And the Honorable Henry John Wrixon, Her Majesty's Solicitor-General for Victoria, shall give the necessary directions herein accordingly.

J. H. KAY,
Clerk of the Executive Council.

COUNTY COURT STATUTE 1869.

Rules.
—
7 July 1871.

WE, Robert Williams Pohlman, Thomas Spencer Cope, and Samuel Henry Bindon, Esquires, being three of the County Court Judges, have, under the powers vested in us by the "*County Court Statute* 1869," fixed the following amended scale of fees and costs to be allowed to practitioners in the said county courts. And we do hereby certify the same under our hands to a law officer of the Crown, namely, the Honorable Howard Spensley, Solicitor-General, accordingly, and to take effect on and after the 1st day of August proximo.

ROBERT WILLIAMS POHLMAN.
T. S. COPE.
SAMUEL H. BINDON.

Submitted to me, and published as directed by the "*County Court Statute* 1869."

HOWARD SPENSLEY,
Solicitor-General.

Crown Law Offices,
Melbourne, 7th July 1871.

AMENDED SCALE OF COSTS AND FEES TO BE ALLOWED TO PRACTITIONERS, BARRISTERS, AND ATTORNEYS INDIFFERENTLY, EXCEPTING WHERE THE FEE IS STATED IN EXPRESS TERMS TO BE FOR BARRISTER OR ATTORNEY ONLY. Rules. — 7 July 1871.

In Common Law Jurisdiction.

1. In actions where Ten pounds or under is recovered the practitioner for the plaintiff, where he is allowed for by the judge, in addition to court fees and amount paid for service, Ten shillings in cases of contract, and One pound one shilling in cases of tort.

2. In such actions where Ten pounds or less is sought to be recovered, to the practitioner for the defendant, where he is allowed for by the judge, one-fourth less than the fees fixed as under in actions over Ten pounds and not exceeding Twenty pounds.

3. In the scales *c* and *d* a consultation fee or fee for advising on evidence of One pound three shillings and sixpence may, at the discretion of the judge, be allowed.

4. In new trial motions when the case has been heard before a jury a fee of One pound three shillings and sixpence in cases of and under Twenty pounds, and Two pounds four shillings and sixpence in cases exceeding Twenty pounds, to be allowed.

5. In actions of contract when the amount recovered shall exceed Ten pounds and under Twenty pounds a fee of One pound three shillings and sixpence may be allowed at the discretion of the judge.

6. In all actions of tort when the amount recovered shall exceed Ten pounds and not exceed Twenty pounds a fee of Two pounds four shillings and sixpence to be allowed.

7. In proceedings of an interlocutory nature, as well before as after judgment, and whether *ex parte* or upon notice or summons, and including application upon judgment summons and after interpleader summons, fees are to be allowed to practitioner proportionate to the subjoined scales, the amount in each case to be fixed by the judge or by the registrar in cases where costs are taxed by him.

8. In actions of ejectment when the rent or annual value is under Ten pounds the scale *c*, and when the rent or annual value exceeds Ten pounds the scale *d* to be allowed.

9. In actions above Two hundred and fifty pounds brought within the jurisdiction of the court by written consent under proviso to section fifty-nine of the Statute, or by direction of the Supreme Court remitted to the County Court, the costs will be the scale *d* with five pounds per cent. upon the amount in excess of Two hundred and fifty pounds.

10. In the application of the following scale as between party and party the amount recovered will regulate the scale of the plaintiff's costs, and the amount sought to be recovered the scale of the defendant's costs; but as between practitioner and client the

Rules. — 7 July 1871.

amount sued for, or value of the property in litigation, will regulate the scale without reference to result.

11. In actions where the amount sought to be recovered shall be Twenty pounds or more a clerk's fee of Two shillings and sixpence to be allowed, at the discretion of the judge.

	a			*b*			*c*			*d*		
	In actions where the amount recovered shall exceed £10 and not exceed £20.			In actions where the amount recovered shall be £20 and not exceed £50.			In actions where the amount recovered shall be £50 and not exceed £100.			In actions where the amount recovered shall be £100.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Letter before action	0	2	6	0	2	6	0	5	0	0	5	0
Advising before action, preparing and issuing plaint summons, or advising on defence and giving notice of defence ...	0	10	0	1	0	0	1	10	0	2	0	0
Service of plaint summons and affidavit of service, when served by practitioner or agent half the fees as allowed to bailiffs; when served by plaintiff reasonable expenses in the discretion of the court												
Issuing summons for witnesses	0	2	6	0	2	6	0	5	0	0	5	0
Copy and service on each witness, if within two miles of the court from which issued (if the distance be beyond two miles, amount of fees discretionary with judge)	0	2	0	0	2	0	0	3	0	0	3	0
Preparing brief, notes of case and evidence for use at trial, not to exceed	0	10	0	1	0	0	1	10	0	2	0	0
Attending court cause in list before trial (allowance not in any case to exceed three days)	0	5	0	0	10	0	0	10	0	0	10	0
Notices to produce or admit where necessary, each	0	2	6	0	5	0	0	5	0	0	5	0
Affidavit of service of same	0	2	6	0	2	6	0	2	6	0	2	6
To attorney attending trial where a barrister-at-law retained	0	10	0	1	0	0	1	10	0	2	0	0
Attending trial and conducting cause ...	1	0	0	1	10	0	2	0	0	2	10	0
Warrant of execution and issuing	0	2	6	0	5	0	0	10	0	0	15	0
All necessary affidavits for which a specific fee is not fixed, drawing and engrossing, per folio	0	1	0	0	1	0	0	1	0	0	1	0
In addition to the above fees counsel's fee where a barrister-at-law is retained by an attorney to advocate the cause at the trial	1	3	6	2	4	6	3	5	6	5	10	0
Notice of application for new trial	0	2	6	0	5	0	0	10	0	0	10	0
Practitioner attending court or judge in support of or opposing motion	0	5	0	0	10	0	1	0	0	1	10	0
In addition counsel's fee where a barrister-at-law is retained by an attorney to support or oppose motion	1	3	6	1	3	6	2	4	6	3	5	6
Brief for counsel	0	10	0	0	10	0	0	10	0	1	0	0
In reference to arbitration under the Statute (excepting where the amount of remuneration is left to the discretion of arbitrator) the amount to be allowed to practitioner shall be—												
Preparing consent and submission	0	5	0	0	7	6	0	10	0	0	10	0
Attendance on arbitration in discretion of the judge												
Notice of appeal to opposite party and to each witness	0	5	0	0	5	0	0	5	0	0	5	0

In Suits and Proceedings in Equity.

Rules.

7 July 1871.

	In cases in which, in the opinion of the judge, the value of the matter in litigation does not exceed £100.			In cases in which, in the opinion of the judge, the value of the matter in litigation exceeds £100.		
	£	s.	d.	£	s.	d.
Letter before suit	0	5	0	0	5	0
Advising before suit, and preparing and issuing plaint summons, or advising on defence or disclaimer, &c....	2	10	0	3	0	0
Service of plaint summons and affidavit of service when served by practitioner, half the fees as allowed to bailiffs						
Issuing summons for witnesses	0	5	0	0	10	0
Copy and service on each witness, if within two miles of the court from which issued	0	3	0	0	3	0
If distance be beyond two miles amount of fee discretionary with the judge						
Notice to produce or admit when necessary, each	0	5	0	0	10	0
Affidavit of service	0	5	0	0	5	0
All necessary affidavits for which no specific charge fixed, drawing, per folio	0	1	0	0	1	6
Engrossing, per folio	0	0	6	0	0	6
Every necessary attendance on the judge, registrar, or opposite party	0	5	0	0	10	0
Preparing brief, notes of case and evidence for use at trial, not to exceed	3	0	0	5	0	0
Attending court each day cause in list	0	10	0	0	15	0
Attending the hearing or rehearing. or further hearing	2	0	0	2	10	0
Preparing decree or decretal order for registrar	1	0	0	1	10	0
Warrant of execution	0	10	0	0	10	0
In addition to the above fees, counsel's fees, where a barrister-at-law is retained by a solicitor to advocate the cause at the hearing or rehearing	3	5	6	5	10	0
Copy of brief, notes of case, &c., for counsel when so retained, not to exceed	1	10	0	2	10	0
Conference fee to counsel where judge considers necessary ...	1	3	6	1	3	6
Solicitor attending conference	0	10	0	0	10	0
Motion for rehearing.						
Solicitor attending to support or oppose motion	1	0	0	1	10	0
In addition, counsel's fee, where a barrister-at-law is retained by a practitioner to support or oppose motion	2	4	6	3	5	6

In all proceedings of an interlocutory nature, as well after as before decree, and whether *ex parte* or upon notice, and including proceedings under a decretal order, and whether before court, judge, or registrar, fees are to be allowed proportionate to the above. The amount in each case to be fixed by the judge, or by the registrar in cases where costs are taxed by him.

In proceedings on behalf of trustees, or *cestui que trust*, under section one hundred and six of Statute, in the discretion of the judge; but not to exceed Five pounds per cent. of the amount of the trust fund dealt with.

In proceedings and suits under Part four of the Statute.

Probate and Administration.

[*This jurisdiction is abolished, see note* (a) ante, *p.* 2810.]

RULES

OF THE

COURT OF INSOLVENCY,

MADE IN PURSUANCE OF THE

'INSOLVENCY STATUTE 1871,"

34 VICT. No. 379 s. 13.

RULES OF THE COURT OF INSOLVENCY.

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RULES OF THE COURT OF INSOLVENCY.[a]

25 April 1871.

In pursuance of the powers and authorities conferred by the "*Insolvency Statute* 1871," we, the Honorable Archibald Michie, Her Majesty's Attorney-General for Victoria; Wriothesley Baptist Noel, Esq.; and the Honorable Samuel Henry Bindon, being the Law Officer, and two of the judges of the Court of Insolvency appointed by the Governor in Council, under the provisions of the said Statute, to frame the Rules of Practice of the said court for the purposes in the said "*Insolvency Statute* 1871" mentioned, do order and direct that the following shall be such rules, subject nevertheless to their being repealed, varied, or altered as provided by the said Statute, and that all other rules shall be and the same are hereby repealed:—

Definition of Terms.

In the construction of these rules words importing the singular number shall include the plural and the reverse, and words importing the masculine gender shall include the feminine and the reverse, and (if not inconsistent with the context or subject matter) "affidavit" shall include statutory declaration and affirmations: the "*Statute*" shall

(a) These differ from the English rules, in that the latter are read as incorporated with the Act, whilst these are not.—*In re Smith*, 3 A.J.R., 18.

Like the rules under the previous Act, they have not the effect of an Act of Parliament, and therefore do not bind the court so strictly, and may be relaxed in accordance with the exigencies of the occasion.—*In re Brann*, 3 W. W. & a'B. (I. E. & M.), 8.

These rules do not bear any date; that given in the margin is the date of publication in the *Government Gazette*.—Ed.

25 April 1871.

mean the "*Insolvency Statute* 1871," and the definitions contained in the Statute shall apply to the same words and terms in the construction of these rules unless the subject or context requires some other construction.

APPEALS.

1. Upon any appeal to the Supreme Court, if the papers in the estate are not kept in the office of the court in the Melbourne district, the chief clerk of the court in whose custody such papers are shall forward the same to the chief clerk at Melbourne, by registered letter, upon the request of the appellant or respondent, upon payment of the fee of £1, and the chief clerk of the court at Melbourne (if the papers are in his custody, or have been transmitted to him), or some other clerk deputed by him, shall attend the Supreme Court upon any appeal with the papers in the estate. After any appeal shall have been disposed of by the Supreme Court the chief clerk at Melbourne shall return the papers, by registered letter, to the chief clerk of the district from whom he received the same.[a]

REGISTRATION BY REGISTRAR-GENERAL.

2. The name of the insolvent, his address and description, the date of the sequestration or adjudication of sequestration, and the name of the assignee or trustee named in the order shall be entered in a book to be kept by the Registrar-General for that purpose, and every entry shall be numbered consecutively.

VOLUNTARY AND COMPULSORY SEQUESTRATIONS.

3. Every petition for sequestration under Part III. of the Statute shall be accompanied by an affidavit[b] of the insolvent, containing the following particulars:—

(I.) Verifying the statements in the petition.

(II.) Stating when the petitioner first became unable to pay his debts in due course as they became due, and the cause of such inability.

(III.) What books of account he has kept; or, if he has kept none, what documents he has, if any, and of what kind, which will show the state of his affairs.

4. Every petition shall be accompanied by a schedule[c] containing the particulars specified in the Schedule of Forms, No. 3, which shall be verified by the affidavit of the insolvent in the form in the schedule; and if such schedule has been prepared wholly or in part by any other person or persons, by the affidavit of such other person or persons.

5. The judge or chief clerk may dispense with the whole or such portion of the particulars mentioned in the said schedule as he may think fit, but he shall not do so except upon affidavit showing

(*a*) See further Reg. Gen. Sup. Ct., *ante*, p. 2782.

(*b*) It may be made by the attorney under power of a corporation, a creditor. —*In re English*, 2 A.J.R., 9, and may be dated and made before the petition.—*In re Murray*, 1 A.J.R., 113.

(*c*) The whole of the estate of which the deceased died possessed of is to be indicated in the schedule, that is, everything which the administrator is entitled to collect, whether he in fact collected it or not. —*Fairbairn* v. *Clarke*, 1 W. & W. (Eq.), 337.

sufficient grounds. In cases of petitions for the sequestration of trust estates or partnership estates, the same form of schedule shall be used as nearly as may be; and as to partners, the schedule shall distinguish joint and separate estates and liabilities. 25 April 1871.

6. Within one week after adjudication of sequestration, or such further time as the judge or chief clerk may allow, the insolvent shall file in the office of the chief clerk the schedule hereinbefore referred to,[a] verified in manner aforesaid, and the judge or chief clerk may in like manner as aforesaid dispense with any portions of the said schedule upon such terms (if any) as he may think fit, and within the said time the insolvent shall file an affidavit containing the particulars mentioned in sub-sections (II.) and (III.) of rule No. 3.

7. Every order under Part III. and adjudication of sequestration shall be written or printed or partly written and partly printed on parchment or paper.

8. The rules of practice made by the judges of the Supreme Court in regard to the granting orders *nisi* for sequestration shall be followed by the judges of the Court of Insolvency.[b]

9. Every insolvent shall, until he obtains his certificate, keep his trustee informed of his true place of residence and business, and any order, summons, or notice, unless by the Statute or these rules otherwise provided, posted, by prepaid registered letter to or delivered at the address given by him shall be deemed served upon the insolvent.

10. The chief clerk forthwith, upon any order of sequestration being made, shall telegraph to the chief clerk of the court at Melbourne that such order has been made.

Notice to Sheriff.

11. The party obtaining any order of sequestration under Part III. or Part IV. of the Statute shall forthwith lodge an office copy thereof with the sheriff of the district, who shall register the same and note thereon the day and hour of its production.

The chief clerk shall, upon the request of the assignee or any creditor, and upon payment of the sum of five shillings, telegraph to any sheriff notice that such order has been made.

Declaration of Inability to Pay Debts.

12. A declaration by a debtor admitting his inability to pay his debts shall be dated, signed, and witnessed according to the form in the schedule, and shall be filed with the chief clerk of the court of the district in which such debtor might present a petition for sequestration.

Debtor Summons.

13. [*Repealed, and new rule substituted by the Amending Rules of 6th October* 1871, post.]

(*a*) A previous voluntary sequestration, in which no certificate of discharge has been granted, is no sufficient ground for neglecting to file the schedule.—*In re Miller*, 4 A.J.R., 122.

(*b*) For these rules see *ante*, pp. 2782 and 2783.

25 April 1871.

14. A debtor's summons shall be served personally upon the debtor;[a] but if it is proved to the satisfaction of the court by affidavit or the examination of witnesses that the debtor has left Victoria, or is keeping out of the way to avoid service, the court may order that service of an office copy of the summons, by delivering the same to some adult person at the usual or last known place of abode or business of the debtor, or if such person will not receive the same, or if there be no such person, by affixing such copy upon some conspicuous place upon the premises, shall be deemed good service of such summons upon the debtor.[b]

15. When upon a petition under Part IV. of the Statute, the act of insolvency relied on is that the debtor has neglected to pay, secure, or compound with the petitioner a sum mentioned in a debtor's summons, no order shall be made, if the debtor has applied for the dismissal of such summons, until after the hearing of the application, or where the summons has been dismissed, or during a stay of the proceedings thereon.

16. [*Repealed, and new rule substituted by the Amending Rules of 6th October* 1871, post.]

PRACTICE.

17. [*Repealed by the Amending Rules of 6th October* 1871, post.]

18. The chief clerk shall[c] submit any matter before him upon which he is doubtful, or which the parties or either of them desire should be submitted, to the judge for his opinion and order. Where a judge in chambers shall be of opinion that any matter ought to be heard and disposed of in open court, or all the contending parties shall require any matter to be so heard and disposed of, such matter shall be so heard and disposed of, or if part heard, shall be adjourned for the purpose of being further heard and disposed of in open court.

19. All applications to the court relating to any claim to the recovery or possession of property or to damages shall be by notice of motion, which shall be instead of a plaint in the County Court, or bill in equity, or declaration at common law, and such notice of motion shall contain all necessary particulars of the object of the motion and of the property sought to be recovered or affected or the amount of the damages claimed, and of the person against whom such application is made.

20. Every notice of motion under the last rule, and every summons under section 94 of the Statute, shall be served fourteen clear days, at least, before the day upon which the same is set down to be heard, unless a judge otherwise order. Every such notice and summons shall contain an address of the applicant, or of some solicitor at which notice of defence may be served, and service thereat shall be deemed good service on the applicant.

(*a*) Where service of the summons is made by a copy and not by the original, and the judge holds it to be sufficient, the remedy is by appeal and not prohibition. —*Ex parte Levy*, 1 V.L.R. (L.), 271.

(*b*) This rule shows by implication that it is only where a debtor cannot be personally found, that an office copy is required, personal service by a compared copy showing the original is good service. —*In re Lyon*, 4 A.J.R., 13.

(*c*) This rule is imperative on the chief clerk.—*In re Reuter* 4 A.J.R., 143.

21. [*Repealed, and new rule substituted by the Amending Rules of 6th October* 1871, post.] 25 April 1871.

22. [*Repealed by the Amending Rules of 6th October* 1871, post.]

23. The claimant shall be deemed the plaintiff, and the person against whom the application or summons is directed the defendant, and, with the leave of a judge, the plaintiff or defendant may amend or add to his notice of motion or summons or defence upon such terms (if any) as to adjournment, security, costs or otherwise as the judge may think fit. Every notice of motion or summons under section 94 of the Statute or notice of defence may be in the form in the schedule. The plaintiff or defendant, upon any notice of motion or summons relating to any claim to the recovery or possession of property or to damages, or to any debt due to the insolvent estate, may apply to a judge to order particulars; and the judge may order the same upon such terms (if any) as to adjournment, security, costs, or otherwise as he may think fit.

24. All applications to the court relating to any claim to the recovery or possession of property or to damages or to any debt due to the insolvent estate shall be heard upon evidence *vivâ voce* in the same manner as nearly as may be as a trial at law, unless both parties consent that the same shall be heard upon affidavit.

25. All applications to the court to admit, reject, expunge, or reduce proofs of debt shall be by notice of motion, and all such applications shall be heard upon evidence *vivâ voce*, and in the same manner as nearly as may be as a trial at law, unless both parties consent that the same shall be heard upon affidavit, and the party supporting the proof shall be deemed the plaintiff, and the party opposing the defendant, and the affirmative shall be on the plaintiff unless the proof has been already admitted by the court after opposition, in which case the defendant must satisfy the court that the proof ought to be expunged.

26. Every notice of motion to admit, reject, expunge, or reduce a proof of debt, shall be served, at least, seven days before the day upon which the same is set down to be heard, and notice of intention to oppose the same shall be served four days before the day of hearing; and every such notice of motion and opposition shall contain the address of the party, or a solicitor at which notice may be served, and shall state the grounds, legal or equitable, upon which it is intended to support or oppose such motion.

27. The court or a judge may extend the time for serving any notice of motion or of defence or opposition, or any summons, and may permit or require amendment thereof upon such terms as to adjournment, security, costs, or otherwise as may be just. The court may in cases of emergency allow short notice to be given of any notice of motion, or of any summons under section 94.

28. With every notice of motion to reject, expunge, or reduce a proof of debt, if such notice is given before or at any meeting for the election of a trustee, there shall be served an affidavit of the applicant and a solicitor stating that such application is *bonâ fide* and not to prevent the person claiming to be a creditor voting at the meeting.

25 April 1871.

29. When any married woman or infant is the claimant or plaintiff in any application to the court under the Statute, the same shall be made by a next friend of such married woman or infant, and the consent of such next friend to act as such shall be filed before any such application shall be heard, and every next friend shall be liable to costs as if he were a next friend in an equity suit in the Supreme Court.

30. The court or a judge may appoint a guardian *ad litem* to any infant being a party defendant to any application to the court, and such appointment may be made on the application of the infant or of the claimant or plaintiff; but in the latter case, upon four clear days' notice to the persons in whose custody or care the infant may be, and such guardian shall perform the same duties and be liable in the same way and to the same extent, as nearly as may be, as a guardian *ad litem* in an equity suit in the Supreme Court.

31. Where the defendant is desirous of paying money into court, it shall, unless with the leave of a judge, upon such terms as he may think fit, be paid seven clear days before the day appointed for the hearing, with the costs, if any, which shall be fixed by the judge, and the defendant shall in his notice of defence state that he has paid such money in, and the amount thereof, and whether the same is in satisfaction of the whole or what part of the plaintiff's demand.

32. If the plaintiff intends to accept in full satisfaction of his claim and costs the money paid into court by the defendant, he shall serve notice thereof on the chief clerk and on the defendant four days at least before the day appointed for the hearing, and the motion or summons shall be struck out by the chief clerk. In default of such notice by the plaintiff, the motion or summons shall be heard in due course, and unless the plaintiff recovers more than the amount paid into court he shall pay the defendant's costs, and the money paid into court shall remain in court until after the hearing as a security for payment of such costs; but if the plaintiff accepts the same in full satisfaction, the money paid into court shall be paid out to the plaintiff forthwith after the receipt of his notice of acceptance by the chief clerk. The plaintiff or defendant taking money out of court must produce, if required, an affidavit of identity, unless the money is taken out by an attorney.

33. Any party to any application to the court may call upon the other party by notice in writing to admit, saving all just exceptions, any fact or document, and in case of refusal or neglect to admit the same, the costs of proving such fact or document shall in any event be borne by the party so neglecting or refusing, unless the court on the hearing otherwise orders. No costs of proving any document shall be allowed unless notice to admit has been given, unless the court otherwise orders. An affidavit of signature to any admission by the party or his attorney or clerk shall be sufficient evidence of such admission.

34. Any party to any application to the court may serve notice on the other party to produce documents, and such notice may be proved orally or by the affidavit of the person who served the same, and the costs of proving the same shall be paid by the party refusing to admit service of such notice to produce.

35. All applications (except as aforesaid) to the court in the exercise of its primary jurisdiction by virtue of the Statute (unless otherwise provided or the court shall in any particular case otherwise permit), shall be by way of motion, supported by affidavit, upon hearing which the court shall make such order thereon as shall be just; but the court may, if it shall think fit, in any case where the party or parties to be affected by the order, or any of them, shall not have been duly served with a notice of the motion four clear days before the day appointed for the hearing, make an order calling upon the party or parties to be affected thereby to show cause, at a day to be named by the court in such order, why such order should not be made, and except the court otherwise order every order to show cause shall be served upon the party or parties to be affected thereby four clear days at the least before the day appointed for showing cause. 25 April 1871.

36. Unless otherwise prescribed or ordered by the court or a judge, all notices of motion and summonses under section 94 of the Statute, and orders or rules to show cause, shall be served personally upon the persons to be affected thereby, by delivering to them and each of them an office copy of the notice of motion, summons, or order, or rule to show cause; but the court or a judge may order substituted service in such manner as the court or judge may think fit. Service at the place of business of a firm upon any partner shall be good service on the firm, and service at the head office of any corporation upon the manager, inspector, or secretary, or other head officer shall be good service upon the corporation.

37. [*Repealed, and new rule substituted by the Amending Rules of 6th October* 1871, post.]

38. Any witness who has made an affidavit to be used in any matter before the court shall be subject to oral cross-examination at the time fixed for hearing the matter, or at any adjournment, and after such cross-examination such witness may be re-examined by or on behalf of the party to the matter on whose behalf or at whose instance such affidavit was made.

39. A short note in writing of the nature of any application to the court and of the party making the same shall be delivered to the chief clerk, who shall appoint a day for the hearing and set the same down for hearing and cause a list to be made of such applications, which shall be heard in the order in which they appear on such list, unless the court shall otherwise direct.

40. In any proceeding before the court or a judge, the court or judge may allow any amendments which in the judgment of the court or judge ought to be allowed on such terms as may be ordered.

41. The chief clerk shall tax all costs subject to review by the judge.

42. A warrant of seizure or a search warrant, or any other warrant issued under the provisions of the Statute, may be addressed to a messenger of the court or to such other person as the court may in each case think fit to name in such warrant.

43. Where an insolvent is arrested under a warrant issued under section 127 of the Statute, he shall be safely kept by being lodged

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within the prison, to the keeper of which the warrant is, amongst others, addressed; and any books, papers, moneys, goods, and chattels in the possession of the insolvent, which may be seized, shall be lodged with the trustee of the property of the insolvent forthwith.

44. All applications to a judge in chambers, unless *ex parte*, shall be made upon notice in writing, which shall be served twenty-four hours before the time fixed in the notice.

45. The instrument appointing a proxy shall be under the hand of the creditor, or if such creditor is a corporation or company, under the hand of an agent, stating that he is duly authorized on its behalf, and, unless the proxy forms part of the proof of debt, or is annexed to and verified by the affidavit of proof, the person appointed proxy shall file in the office of the chief clerk an affidavit stating that he has been duly appointed, and the chief clerk shall give him a certificate that he has done so, which shall be sufficient to entitle him to act as such proxy, and the onus of disputing any proxy shall lie upon the person objecting to the same upon application to the court.

46. All notices and other proceedings, not being notices of motion or summonses under section 94 of the Statute, or summonses under Part VII. of the Statute, or orders or rules to show cause, for the delivery of which no special mode is prescribed, may be sent by prepaid post-letter to the last known address of the person to be served therewith.

47. An affidavit by a trustee or an officer of the court, or any person who in fact posted the letters, that letters have been put into a post-office, shall be sufficient evidence of such letters having been duly sent to the persons to whom the same purport to have been addressed.

48. All proceedings of the court shall remain of record in the court, so as to form a complete record of each matter, and they shall not be removed for any purpose, except for the use of the officers of the court, or by special direction of a judge, but they may at all reasonable times be inspected by the trustee, the insolvent, and any creditor who has proved, or any person on their behalf.

49. All affidavits shall conform in all particulars to the provisions regarding affidavits contained in the "*Common Law Procedure Statute* 1864."

50. Every request of creditors to transfer proceedings under section 10 of the Statute shall be accompanied by an affidavit of some solicitor of the court verifying the signatures of the creditors signing the request, and stating that such creditors are the majority in number of those who have proved debts in the estate.

51. When any order is made under section 10 of the Statute, an office copy shall be forthwith forwarded to the chief clerk of the new district by the party obtaining such order or by the chief clerk of the original district.

52. When an order is made under section 10 of the Statute transferring all the proceedings, the chief clerk of the original district shall transmit, by registered letter, all the documents

relating to the estate to the chief clerk of the new district, and when the order relates to only part of the proceedings the chief clerk of the new district shall transmit the documents relating to such proceedings by registered letter as speedily as possible after the same have been concluded to the chief clerk of the original district. 25 April 1871.

PROOF OF DEBTS.

53. Every proof of debt shall contain an address of the creditor or his solicitor, at which notices may be served, and service of notices at such address, except herein otherwise provided, shall be sufficient.

54. The assignee or trustee shall, as soon as may be after the receipt by him of a proof of debt, examine the same, and in writing reject or admit it in whole or in part, or require further evidence in support thereof; and when he rejects any proof he shall, within seven days thereof, give notice in writing to the claimant, stating the grounds of rejection.

55. The assignee or trustee shall, within four days of his allowing or disallowing a proof, file such proof with the chief clerk with a memorandum thereon of his allowance or disallowance thereof.

56. Any creditor or insolvent dissatisfied with the decision of the assignee or trustee in respect of a proof may, within fourteen days after the receipt of the notice from the trustee, apply to the court by notice of motion to vary or reverse the decision, and notice of any such application shall be given to the trustee seven days before the day fixed for the hearing thereof.

57. If at any time after the admission of a debt by the assignee or trustee he shall have reason to believe that such debt was improperly admitted, he may apply to the court, after seven days notice to the creditor, to expunge or reduce the proof.

58. A secured creditor, unless he shall have realized his security, shall, previously to being allowed to prove or vote, state in his proof the particulars of his security and the value at which he assesses the same, and he shall be deemed to be a creditor only in respect of the balance due to him after deducting such assessed value of the security.

59. Any secured creditor so proving shall be bound to pay over to the trustee the amount which his security shall produce beyond the amount of such assessed value, and the trustee shall be entitled, at any time before the realization of such security by the creditor, to redeem the same upon payment of such assessed value.(a)

60. The proof of any secured creditor shall not be increased in the event of the security realizing a less sum than the value at which he has assessed the same.

(a) Where a creditor has different securities for the same debt, and in his proof values them separately, and there is an excess realized upon one security and a deficiency upon the other, the official assignee is only entitled to excess, if any, in the aggregate sum realized over the aggregate valuation.—*In re Bayldon*, 1 V.L.R., (I. E. & M.), 10; s.c., 5 A.J.R., 163.

This rule is not *ultra vires*.—*Ibid.*

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61. A secured creditor who does not wish at once to realize his security but desires to give credit for its value must, in order to entitle him to a dividend in respect of the balance of his debt after deducting the assessed value, give notice to the trustee; and the trustee and secured creditor may agree upon the value; but if within seven days after service of the notice they are unable to agree, or if the insolvent or any other creditor is dissatisfied with the value agreed on, the trustee, secured creditor, insolvent, or dissatisfied creditor, may apply to the court, upon notice, and the court may assess the value or order the sale of the property included in the security, and the secured creditor shall be entitled to a dividend upon the balance after deducting such assessed value or the net proceeds of the sale.

62. Any separate creditor of any insolvent shall be at liberty to prove his debt under any sequestration made against such insolvent jointly with any other person or persons. And under every such sequestration distinct accounts shall be kept of the joint estate and also of the separate estate and estates of each insolvent, and the separate estate shall be applied in the first place in satisfaction of the debts of the separate creditors. And in case there shall be an overplus of the separate estate, such overplus shall be carried to the account of the joint estate. And in case there shall be an overplus of the joint estate such overplus shall be carried to the account of the separate estates of each insolvent in proportion to the right and interest of each insolvent in the joint estate.

63. Upon all debts or sums certain, payable at a certain time or otherwise, whereupon interest is not reserved or agreed for, and which shall be overdue at the date of the order of sequestration and provable in insolvency, the creditor shall be entitled to prove for interest, to be calculated at a rate not exceeding six pounds per centum per annum up to the date of the said order, from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or, if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment. Any creditor may prove for a debt not payable, and be entitled to prove such debt as if the same was payable presently, and receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of six pounds per centum per annum, computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms upon which it was contracted.

64. A creditor shall bear the cost of making proof of his debt, unless the court shall otherwise specially order, and no part of the expense of any competition for the office of trustee shall be paid out of the estate.

Meetings of Creditors.

65. Two days' notice in writing shall be given to the chief clerk when he is required to preside at any meeting of creditors other than that under the 53rd section; and if so requested, he shall attend such

meeting, and, unless a chairman be elected, he shall preside thereat. To form a quorum at any meeting there shall be present or represented two creditors who have proved. Meetings of creditors may be adjourned[a] from time to time, as the creditors by an ordinary resolution may direct. 25 April 1871.

66. The chief clerk, or the chairman, from time to time may adjourn any meeting of creditors of which the election or removal of a trustee is the whole, or part of the business, until any disputed proof is finally rejected or admitted.

67. The meeting of creditors mentioned in the 53rd section of the Statute shall be called for a day not less than three days nor more than twenty-one from the date of the order of sequestration or adjudication of sequestration, and such meeting may be presided over by a chief clerk and the assignee of the estate, or if he cannot conveniently, some other person authorized by writing under his hand shall attend such meeting and produce the proofs of debt delivered or sent to him, or a list thereof, specifying the names of the creditors and the amount of their debts.

68. A creditor may prove his debt at any meeting (unless the same is objected to) by delivering to the assignee or trustee an affidavit or declaration in accordance with the requirements of section 104 of the Statute.

69. General meetings of creditors (except that under the 53rd section of the Statute) shall be summoned by the assignee or trustee by delivering or posting a notice to each creditor who has proved four days at least prior to the day on which such meeting is to be held. And such notice shall specify the time and place at which the meeting is to be held, and the purpose for which it is summoned.

70. If within a reasonable time from the time appointed for a meeting under the 53rd section a quorum of creditors is not present or represented, the meeting shall close, but any other meeting shall stand adjourned to the same day in the following week, at the same time and place, or to such other day as may be appointed.

71. Proceedings at any meeting of creditors and resolutions come to thereat shall be valid, notwithstanding that some creditors shall not have received notice, unless otherwise ordered by the court.

72. Directions of creditors at a meeting shall, except where by the Statute otherwise required, be given by an ordinary resolution. The chairman of any meeting of creditors shall make a minute in writing of the creditors present or represented thereat and of the resolutions passed by the meeting, and shall sign the same, and the creditors or their representatives voting for each resolution shall sign such resolution, and if the chairman is not the chief clerk, he shall deliver or forward the minutes and resolutions within forty-eight hours after the meeting to the chief clerk.

Evidence and Compulsory Discovery of Property.

73. A subpœna for the attendance of a witness concerning any matter in the court may be issued by the chief clerk at the instance

(a) Whenever it is necessary that the opinion of the judge should be obtained under Rule 18, *ante*, the meeting should be adjourned.—*In re Reuter*, 4 A.J.B., 143.

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of a trustee, a creditor, a debtor, or any person interested in any matter. A sealed copy of the subpœna shall be served personally on the witness or at his place of business or abode, within a reasonable time before the time of the return thereof.

74. The trustee shall give notice to the insolvent of an examination sitting of the court, under section 132 of the Statute, by delivering to the insolvent personally, or at the address of the insolvent, as given by him, an order of the court, stating the time and place appointed for such sitting, and ordering him to attend thereat, and stating that if he fails to attend such sitting, or any adjournment thereof (having no lawful impediment made known to and allowed by the court), he will be deemed guilty of a contempt of court, and may be punished accordingly.

75. Every application, under section 133, for a summons shall be in writing, and the chief clerk shall file the same and issue a summons, which shall be served personally, unless otherwise ordered.

76. If the court shall in any case, upon application by the trustee or any creditor, or the insolvent, be of opinion that it would be desirable that a person should be appointed to take down the depositions of the insolvent, or of any other person under sections 132 or 133 of the Statute, in shorthand or otherwise, it shall be competent for the court to make such an appointment; and every person so appointed shall be paid a sum not exceeding one guinea per day, and where the court appoints a shorthand writer a sum not exceeding eightpence per folio of ninety words of any transcript of the evidence that may be required, and such sums shall be paid by the party at whose instance the appointment was made, or out of the estate, as may be directed by the court.

Committee of Inspection.

77. Where the creditors neglect by resolution to fix the quorum required to be present at a meeting of the committee of inspection, the quorum shall be three; or if the number of the committee be less than three, the quorum shall be the whole number. A resolution of the committee of inspection shall be passed unanimously or by a majority in number of the members present at the meeting.

Trustee.

78. Where an order of sequestration has been made upon the petition of a secured creditor, who has been admitted as the petitioning creditor to the extent of the balance of the debt due to him after deducting the amount estimated by him as the value of his security, he shall, upon the application of the trustee, made within one month after the date of the order absolute, give up the security to the trustee upon the payment to him of the value so estimated; and where the trustee does not so apply within such term he shall be considered to have waived his right to redeem the security, by payment of such estimated value.

79. Where the trustee is an auctioneer or commission agent, he shall not by himself or any partner act as such in the sale of any of the property vested in him, except with the consent of the committee of inspection, or of the creditors at a meeting, and upon such terms as it may think fit.

80. The trustee shall keep a book to be entitled "The Record," in which he shall record all minutes, all proofs made, all proceedings had, and resolutions passed at any meeting of creditors, or of the committee of inspection, schedule, affairs, reports and all proceedings necessary to give a correct view of the management of the insolvent's estate, but he shall not be bound to insert in the record any document of a confidential nature (such as the opinion of counsel or any matter affecting the interest of the creditors), nor need he exhibit such document to any person other than the members of the committee of inspection. 25 April 1871.

81. The trustee shall also keep a book to be entitled the "Estate Book," according to the form in the schedule, in which he shall enter from day to day the receipts and payments made by him, which books may be inspected by the committee of inspection and the creditors or their agents.

82. Upon a trustee resigning, or being released or removed, from his office, he shall deliver over to the chief clerk of the court all books kept by him, and all other books, documents, papers, and accounts in his possession in any way relating to the office of trustee.

83. Unless and until the creditors appoint a bank into which moneys received by the trustee on account of the estate are to be paid, he shall pay the same into the Bank of Victoria to the credit of the estate.

84. The trustee shall not declare a dividend until after the expiration of one month from the order or order *nisi* for sequestration; but the court or a judge may, upon application of the trustee or any creditor, fix the time or times for declaring dividends in any estate.

85. The trustee shall file the statements mentioned in section 122 of the Statute on the first day of February, the first day of June, and the first day of September in each year.

86. A creditor may apply, by notice of motion, for the payment of a dividend withheld by a trustee, and the court may, if it shall see fit, make an order upon such application for the payment of the dividend, and four days' notice shall be given to the trustee of any such application.

Applications by Mortgagees.

87. Upon application by motion by any person claiming to be a mortgagee of, or to have security over any part of the insolvent's estate, and whether such mortgage or security shall be by deed or otherwise, and whether the same shall be of a legal or equitable nature, the court will proceed to inquire whether such person is such mortgagee, or is entitled to such security, and for what consideration and under what circumstances; and if it shall be found that such person is such mortgagee, or is entitled to such security, and no sufficient objection shall appear to the title of such person to the sum claimed by him under such mortgage or security, the court will then proceed to take an account of the principal, interest, and costs due upon such mortgage and security, and of the rents and profits, or dividends, interest, or other proceeds received by such person, or by any other person by his order or for his use, in case he shall have been in possession of the property over which the mortgage or

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security shall extend, or any part thereof, and the court will then direct notice to be given in such public papers as it shall think fit, when and where, and by whom and in what way the said premises or property, or the interest therein so mortgaged, or over which the security shall so extend, are to be sold, and that such sale be made accordingly, and that the trustee (unless it be otherwise ordered) shall have the conduct of such sale; but it shall not be imperative on any such mortgagee to make such application.

88. All proper parties shall join in the conveyance to the purchaser, where necessary, as the court shall direct.

89. The moneys to arise from such sale shall be applied in the first place in payment of the costs, charges, and expenses of the trustee, of and occasioned by the application to the court, and of and attending such sale; and then in payment and satisfaction, so far as the same shall extend, of what shall be found due to such mortgagee or person so having security, for principal, interest, and costs, and the surplus of the said moneys, if any, shall be paid to the trustee. But in case the moneys to arise from such sale shall be insufficient to pay and satisfy what shall be so found due to such mortgagee or person so having security, then he shall be entitled to prove as a creditor for such deficiency, and receive dividends thereon rateably with the other creditors, but so as not to disturb any dividend or dividends then already made.

90. For the better making such inquiry and taking such account, and making a title to the purchaser, all parties may be examined by the court upon interrogatories or otherwise, as it shall think fit, and shall produce before the court upon oath all deeds, papers, and writings in their respective custody or power relating to the insolvent estate, as the court shall direct.

Certificate.[a]

91. Every insolvent intending to apply for a certificate of discharge shall apply to the chief clerk for an appointment, who shall fix the time and place when the application shall be heard, and such time and place shall be inserted in the advertisement.

92. Upon the hearing of any application for a certificate, if the same be not opposed,[b] the court shall consider the depositions (if any) of the insolvent and any evidence he may bring forward, and, if the insolvent desire it and the court shall think fit, it shall direct the chief clerk to furnish the insolvent with notice in writing of matters requiring explanation, and after such explanation (if any) the court shall decide upon the application in accordance with the Statute.

93. Any creditor, or the trustee, desiring to oppose the grant of a certificate of discharge shall file with the chief clerk a notice of objections seven days at least[c] before the day named in the notice

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(*a*) Applications for certificates are of two kinds—one under sec. 135, rules 91–98, the other under secs. 135 and 136, rules 99 and 100.—*In re McKay*, 4 A.J.R., 131.

(*b*) If there be no opposition, the court may refuse or suspend the certificate.—*In re Marshall*, 6 W. W. & a'B. (I. E. & M.), 4.

(*c*) These mean clear days and not days computed under rule 157, *post*.—*In re Dixon*, 5 A.J.R., 171.

of intention to apply for a certificate. The notice of objections shall shortly state, with reasonable certainty, the grounds of opposition intended to be relied upon; and the notice may be amended, varied, or added to, by leave of the court, at any time during the hearing of the application, if the evidence appear to suggest further or other objections, upon such terms (if any) as to costs or otherwise as the court may think fit. 25 April 1871.

94. If an application for a certificate be opposed, the person opposing shall open his case and give such evidence, in addition to depositions already taken, if he relies upon any such depositions, as he may think fit; and after he has closed his case the insolvent shall open his case and give such evidence as he may think fit, and sum up the same, and the person opposing may reply. If the insolvent intends to give no evidence, he shall state his intention, and the person opposing shall sum up his evidence, and the insolvent may reply.

95. Upon applications for a certificate, evidence, in addition to depositions already taken, shall be given, *vivâ voce*, in open court, but the court may allow affidavits to be used, or the whole or part of the evidence to be taken on commission.

96. Any creditor may at any time lodge a caveat with the assignee or trustee against the grant of a certificate, who shall give notice in writing of the intended application to such creditor, at the address mentioned in the caveat, as soon as possible after receiving the same from the insolvent.(a)

97. The insolvent shall attend the court on the day appointed for hearing the application for his certificate, and on any day or days of adjournment, unless the court otherwise orders, and if he fail to attend, without reasonable excuse, he shall be deemed guilty of contempt of court, and may be punished accordingly.

98. Every insolvent, before applying to the chief clerk for an appointment for an application for a certificate, shall file an affidavit stating that three months have elapsed since the date of the order of sequestration, and that his estate has paid or will pay seven shillings in the pound to his creditors who have proved.

99. [*Repealed, and new rule substituted by the Amending Rules of 6th October* 1871, post.]

100. Such application shall be heard upon affidavit; all depositions already taken in the estate may be read; the court may postpone its decision upon such application until it shall have heard the application for a certificate; the court may adjourn the hearing of any application for a certificate to give an opportunity of compliance with the condition of paying seven shillings in the pound.

101. Every information under section 144 of the Statute shall be verified by the affidavit of the informer in the form in the schedule, and shall be filed, together with such affidavit, with the chief clerk, at least fourteen days before the hearing; and an office copy of the information, having a notice at foot thereof, as in the schedule, shall

(a) If no caveat be lodged, the trustees need not inform a creditor of the meeting; but if the creditor be at the meeting, he is entitled to be heard, notwithstanding his omission to lodge a caveat.—*In re Dixon*, 5 A.J.R., 171.

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be served upon the party informed against personally, seven days at least before the day of hearing; and the hearing of any such information shall be upon evidence *vivâ voce* in open court, and conducted as nearly as may be as a trial at law.

102. When an insolvent has given bail to attend upon the day appointed for giving judgment upon his application for a certificate of discharge, or has been committed in default of bail, if for any reason the court shall not be prepared to give judgment on the day first appointed, the court may alter such day; and, in such case, the insolvent may be again called upon to find bail, and in default thereof may be again committed.

103. If an insolvent does not apply within six months after sequestration for his certificate, a judge, on the application of the trustee or a creditor, may order him to attend on a day named in the order, and if he attend, or if not attending, he is brought before the court on warrant, the court shall proceed to hear the witnesses (if any) produced by the trustee or opposing creditor, and the trustee or opposing creditor shall then, or at such subsequent time as the court may order, give notice of objections to the insolvent; and the court shall then hear the insolvent's witnesses (if any) and argument as on an ordinary application, and make such order as it may think fit.

104. Any person intending to make application to the court under section 149 of the Statute shall cause notice in writing to be served on the official assignee and the creditor (if any) who opposed the grant of the certificate before the commissioner or Supreme Court, as the case may be, twenty days at least before the time fixed for the hearing such application. If the creditor who opposed is dead or has left Victoria, it shall be sufficient to serve the official assignee. The court may, on cause shown on special application, direct advertisements to be inserted in lieu of service of notice. Every person applying under section 149 of the Statute shall file with the chief clerk at Melbourne an affidavit setting out the date of the sequestration, and that two years have elapsed since the refusal of the certificate by the Supreme Court or commissioner, as the case may be, and what dividend (if any) has been paid in his estate, and the grounds of the refusal of his certificate, and how he has been employed in the meantime, and what have been his means (if any) of paying his creditors. The chief clerk of the Geelong or Beechworth districts respectively shall, upon any application being made to the court at Melbourne, under section 149 of the Statute, regarding an estate situate in those districts, upon receiving a request in writing so to do, together with the fee of one pound, forward to the chief clerk at Melbourne the papers in such estate, and, after the application has been disposed of, the chief clerk at Melbourne shall return such papers. Any creditor or the official or elected assignee may appear and be heard on any application under section 149 of the Statute.

APPLICATIONS UNDER SS. 129 AND 130 OF THE STATUTE.

105. Notice of any application under sections 129 or 130 of the Statute shall be in the form in the schedule and shall be served upon every creditor of the insolvent, whether such creditor has

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proved or not, thirty clear days at least before the day appointed for hearing such application. If any creditor be dead, service upon his personal representative shall be sufficient; or if any creditor be absent from Victoria, service upon his agent shall be sufficient, but the court may dispense with service if there be no representative or agent in Victoria of such deceased or absent person. Any creditor, or the assignee or trustee, may be heard upon any such application in opposition to or support thereof, as the case may be.(a)

LIQUIDATION BY ARRANGEMENT AND COMPOSITION.

106. All proceedings under sections 150, 151 of the Statute shall be commenced by petition(b) in the form in the schedule, which shall be filed before the meeting is held.

107. The meeting of creditors under section 150, and the first meeting of creditors under section 151, may be summoned by the debtor by delivering or sending by prepaid post-letter to each of his creditors, or if dead their personal representatives, or their agents if out of the colony, a notice in the form in the schedule. Notices sent by post shall be posted at least five days before the day on which the meeting is to be held. A notice delivered or posted to a firm at its place of business shall be sufficient notice to the partners thereof. Notice may be delivered or posted to the manager, inspector, or secretary, or other head officer of any corporation.

108. The chairman of the general meeting under section 150, and of the first general meeting under section 151, shall be elected by a majority of the persons present thereat claiming to be or to represent creditors; the chairman of any subsequent general meeting shall be elected by a majority in value of the creditors present or represented who have proved their debts.

109. Upon presentation of an extraordinary resolution for registration, the chief clerk shall examine the same, and may hear any creditor who shall have given him notice of his desire to be heard thereon.

110. The chief clerk, being satisfied that the requirements of the Statute and of these rules have been complied with, shall register the same, making a memorandum thereon, and on the debtor's statement of affairs, as follows:—"Registered the day of 187 ," and shall seal the same with the seal of the court. The chief clerk shall, upon notice by any creditor of motion to the court to expunge or reduce any proof, or to reject any proxies, or of objection to the registration, suspend the registration

(a) This rule must be read with sec. 129 of the Act, and the creditor confined to matters within the scope of that section. He may show, if he can, that the necessary preliminaries have not been completed, or that the insolvent has not properly performed his part of the compact, or that there has been fraud or collusion in the acceptance of the composition, or he may urge that the order be made on certain terms as to costs, &c.; but he cannot go into wholly extraneous matter concerning the conduct of the insolvent or the management of the estate.—*In re Marie*, 3 A.J.R., 63.

Where the requirements of the section and of this rule have been complied with, the court has no discretion to refuse the application on the ground of alleged misconduct towards creditors. The general rule is that the order will be granted only upon payment of the taxed costs of the petitioning creditor.—*In re Risk*, 4 A.J.R., 25.

(b) As to whether this petition is an act of insolvency available for sequestration, see *In re Smith*, 3 A.J.R., 17.

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of the extraordinary resolution until such motion has been disposed of unless the judge shall otherwise order. The chief clerk shall, in cases of liquidation by arrangement, deliver to the trustee a certificate in the form in the schedule.

111. Neither the resolutions nor the proofs of the proxies of creditors assembled at any meeting shall be objected to or refused by the chief clerk by reason of any informality therein unless he shall be of opinion that such informality is matter of moment, in which event he shall refer the matter to the judge.

112. Any creditor, or the debtor, if dissatisfied with the registration or non-registration of the extraordinary resolution (as the case may be), may apply to the court for a rule calling upon such parties as the court may think fit to show cause why the registration should not be made or be cancelled, as the case may be.

113. The chief clerk shall, where he refuses to register such resolution, certify the grounds of such refusal by memorandum under his hand, and file it with the proceedings.

114. The resolution and statement when filed or registered shall at all times be open for inspection by any creditor whose name appears on the statement, or by any person on his behalf.

115. If it shall appear to the court upon the petition in the form in the schedule of any creditor that he had no notice of the meeting at which the liquidation was agreed upon, or of the first meeting under section 151, and that he dissents from the liquidation or composition, and that the vote of such creditor would have altered the result arrived at by such meeting, the court may order that the liquidation or composition be not proceeded with, and if the petitioning creditor's debt be £50 or upwards, may make an order sequestrating the estate. Every such petition shall be heard upon affidavit, and must be presented within fourteen days from the date of the first meeting.

116. A creditor may, before the appointment of a trustee, prove his debt by delivering or sending through the post a statutory declaration of the truth of his debt, and of the cause and amount thereof, to the chief clerk, who shall file the same, and the creditor or his representative shall produce an office copy of such proof to the chairman of the meeting at which he desires to vote; and in all other cases creditors may prove their debts and appoint proxies as under a sequestration. All debts which could be proved under a sequestration, had the estate of the debtor been sequestrated, shall be provable under any such proceedings. All proofs and proxies intended to be used at any meeting, and not previously filed, shall be handed in to the chairman of the meeting; any objection shall be marked thereon by the chairman.

117. A secured creditor, unless he shall have realized his security shall, previously to being allowed to prove or vote, state in his proof the particulars of his security and the value at which he assesses the same, and he shall be deemed to be a creditor only in respect of the balance due to him after deducting such assessed value of the security. In cases of liquidation by arrangement, any secured creditor so proving shall be bound to pay over to the trustee the amount which his security shall produce beyond the amount of

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such assessed value, and the trustee shall be entitled, at any time before realization of such security by the creditor, to redeem the same upon payment of such assessed value. The proof of any secured creditor shall not be increased in the event of the security realizing a less sum than the value at which he has assessed the same.

118. A secured creditor who does not wish at once to realize his security, but desires to give credit for its value, must, in order to entitle him to a dividend in respect of the balance of his debt, after deducting the assessed value, give notice to the trustee, and the trustee and secured creditor may agree upon the value; but if within seven days after service of the notice they are unable to agree, or if the insolvent or any other creditor is dissatisfied with the value agreed on, the trustee, secured creditor, insolvent, or dissatisfied creditor may apply to the court upon notice, which may assess the value or order the sale of the property included in the security, and the secured creditor shall be entitled to a dividend upon the balance after deducting such assessed value or the net proceeds of the sale.

119. Where any creditor shall desire to retire from any meeting, and not to be considered as present, he may withdraw his proof, without prejudice to his again proving his debt on any subsequent occasion.

120. The debtor shall produce to the first general meeting, and also, in case there be any, to the second general meeting, a statement showing the whole of his debts and assets according to the forms A, B, D, E, F, and G, in the Schedule of Forms No. 3, and a list of the names and addresses of the creditors to whom such debts respectively are due. The name of each creditor in such list shall be numbered consecutively, and the list of creditors whose debts do not exceed £25 shall be separated from and follow after the list of those creditors whose debts exceed that amount.

121. The resolution passed at the first general meeting, under section 150 (or first and second general meetings, under section 151, as the case may be), shall determine whether the affairs of the debtor are to be liquidated by arrangement, or whether any and what composition shall be accepted in satisfaction of the debts due to the creditors from the debtor, or it may reject either of such modes of arrangement. The resolution may declare to whom the registration of the resolution and the debtor's statement of affairs shall be entrusted, and the original resolution and statement shall forthwith be delivered accordingly to the person so appointed; and in the event of no such declaration being made in the resolution, the same shall be registered by the debtor. Only such resolutions as are reduced into writing, and are signed by or on behalf of the statutory majority of the creditors assembled at a meeting, shall be taken cognizance of by the court or chief clerk, but the signatures of such creditors may be subscribed subsequently to the meeting, but prior to the filing or registration of the resolution.

122. The chairman shall be bound forthwith to deliver to the person, if any, so appointed, or, in default of such appointment, to the debtor, every declaration or affidavit of proof of debt and proxy paper of what nature or kind soever, and whether in due form

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or otherwise, which shall have been received at the general meeting or meetings, and also the debtor's statement of affairs, and in default thereof may be summoned before the court, and the court may make such order in the matter as it shall think fit.

123. The person to whom the registration of the extraordinary resolution may have been entrusted, or the debtor or his attorney, as the case may be, shall file the same in court, together with the debtor's statement of affairs and all proofs and proxies, within three days after he shall have received the same, and some person able to depose thereto shall verify and identify the resolutions, statement, proofs, and proxies so filed as being the whole of the resolutions, statement, proofs, and proxies come to and produced at the meeting or meetings, when such extraordinary resolution was passed.

124. In the event of a liquidation by arrangement being resolved upon at any general meeting, and no trustee, with or without a committee of inspection, being then appointed, a subsequent meeting shall be held at such time and place, at an interval of not more than a week, as shall be appointed by the resolution, or in default of any such subsequent meeting being so appointed, the same shall be held on the same day in the following week, at the same time and place. No notice of any such subsequent meeting need be given to the creditors.

125. In cases of liquidation by arrangement, the general meeting called by the debtor may, by special resolution, declare what security, if any, shall be given by the trustee, and what remuneration, if any, the trustee shall receive, or they may resolve to leave his remuneration to the committee of inspection, or to a subsequent general meeting.

126. Where the creditors at the first general meeting duly pass a resolution that a composition shall be accepted in satisfaction of the debts due to them from the debtor, they shall specify in their resolution the amount of the composition and the instalments and dates at which the same shall be payable, and they may name some person as trustee for receipt and distribution of the composition and any negotiable securities which may be given for the same.

127. Instead of specifying by their resolution the security to be given, the creditors may resolve that the composition, or some part or instalment thereof, shall be secured in such manner as may be approved by a creditor or creditors to be named by the resolution.

128. The extraordinary resolution may provide that the terms of the composition be embodied in a deed between such parties and containing such covenants for payment of the composition, and for protecting and releasing the debtor, and such other covenants and such provisions for securing the composition either by assignment of property or by inspection of the debtor's business or otherwise, as the nature of the case may require, and as the resolution may specify in particular or general terms.

129. Where, at the first general meeting, a resolution has been passed, resolving that a composition shall be accepted in satisfaction of the debts due to the creditors from the debtor, such resolution shall be filed with the statement of the debtor's affairs, proofs, and

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proxies within three days, and another general meeting shall be appointed to be held at an interval of not less than seven days nor more than fourteen days from the date of the meeting at which the resolution was first passed. The second general meeting shall be held at the same place as the first general meeting, unless the resolution at such first general meeting shall have otherwise directed. Notice thereof, according to the form in the schedule, shall be given by the debtor to every creditor in manner provided with respect to first general meetings, with this addition, that the notice to every creditor who was not present or represented at the first general meeting shall be sent by registered post letter. Such notices shall be sent on or before the third day prior to the day on which the second meeting is appointed to be held.

130. At the second general meeting of creditors, the creditors assembled may confirm the resolution passed at the first general meeting, or they may pass an extraordinary resolution that the affairs of the debtor are to be liquidated by arrangement, or may request him to sequestrate his estate.

131. In cases of proceedings for liquidation, by arrangement or composition, instituted by partners, separate meetings of the different classes of creditors shall be held; thus, if the partnership consists of A, B, and C, a meeting of the joint creditors of A, B, and C shall be first held, and separate meetings of the separate creditors of A, B, and C shall be held at a date or time subsequent to the meeting of the partnership creditors. The joint creditors may come to such resolution as they may think fit with regard to the joint estate. The separate creditors may also come to such resolution as they may think fit as regards the liquidation of the estate of their individual debtor; but, in the event of their determining upon his sequestrating his estate, or the liquidation of his estate by arrangement, they shall choose the same trustee (if any) as has been or shall be appointed by the joint or partnership creditors, but they may appoint a committee of inspection from their own body, if they think fit, or they may adopt the committee (if any) appointed by the joint or partnership creditors. In the event of the separate creditors of any such debtor agreeing to accept a composition, in cases where the joint creditors have resolved on a liquidation by arrangement, the assets of such separate debtor shall be made available by the trustee for or towards the payment thereof, in such manner as the court shall direct and approve; and any surplus of such separate estate remaining in the hands of the trustee, after payment of or provision for such composition, and all proper costs incurred in connexion therewith, shall be deemed partnership assets. If in any such case the separate debtor shall be a member of more than one firm, the surplus of his separate estate shall be applied in such manner as the court may direct.

132. If the petition be by partners, and any two or more of such partners constitute a separate and independent firm, the creditors of such firm may likewise come to a separate resolution as regards the liquidation of such minor partnership estate; and where any surplus shall arise upon the liquidation thereof, the same shall be carried over to the separate estates of the partners in such minor firm, according to their respective rights therein.

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133. In cases of proceedings for or towards liquidation by arrangement or composition by an individual debtor, his creditors and debts shall be deemed to be and include not only those creditors to whom or those debts in respect of which he is individually responsible, but also those creditors and debts to whom or in respect of which he is also responsible jointly with any other person or persons; and the statutory majority required for the purpose of any resolution shall be a collective majority of the whole of such joint and separate creditors assembled at any meeting. In any such last-mentioned proceedings the terms of the resolution as regards joint and separate creditors need not be identical, and, if so desired, the resolution may provide for the payment of a composition to the separate creditors, and that the rights of the joint creditors shall not be prejudiced or affected thereby.

134. Orders for the transfer of proceedings may be made as under a sequestration.

135. Where a sequestration occurs pending proceedings for or towards liquidation by arrangement or composition with creditors, the proper costs incurred in relation to such proceedings shall be paid by the trustee under the sequestration out of the debtor's estate, unless the court shall otherwise order.

136. Resolutions duly come to at any meeting shall have full force and effect, notwithstanding that it may be also resolved that for other purposes the meeting shall stand adjourned.

137. General meetings, subsequent to the appointment of a trustee, shall be summoned by him by giving four days' notice by post to each of the creditors who have proved their debts, stating the object of the meeting and the business proposed to be transacted thereat. A general meeting may at any time be similarly summoned by any creditor, with the concurrence, including himself, of one-fourth in value of the creditors who have proved their debts.

138. Any mistake made inadvertently by a debtor in the statement of his debts may be corrected with the assent of a majority in value of his creditors assembled at a general meeting similarly summoned by the debtor.

139. Proof of debt by any creditor shall be deemed conclusive evidence that notice of all general meetings, prior to and inclusive of that at which such proof is produced, has been duly given to him.

140. All debts must be proved prior to the payment of dividend thereon by the trustee.

141. Seven days at least before declaring any dividend under a liquidation by arrangement, a notice shall be gazetted by the trustee, requiring the creditors to send to him their names and addresses, and the particulars of their debts or claims; and on declaring a dividend, a sufficient reserve shall be made by the trustee for such dividend upon all debts or claims notified to him in pursuance of such notice. The trustee shall be also deemed to have notice of the debts of all creditors whose names are inserted in the debtor's statement of affairs, and (except where any such debt has been adjudicated upon prior to the declaration of the dividend) a similar reserve shall be made in respect thereof.

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142. Except as before mentioned, the trustee shall declare dividends amongst such creditors only as have proved their debts up to the time of such declaration of dividend, and no creditor who has omitted to prove his debt, or to send to the trustee the particulars of his claim, or whose name does not appear in the debtor's statement, shall be entitled to disturb any such dividend, or to make any claim in respect thereof against the trustee; but upon proof of his debt any such creditor shall be entitled to receive the same prior to the payment of any further dividend to the other creditors.

143. The discharge to the debtor shall be in the form in the schedule, and shall be signed by the requisite proportion of creditors in number and value, or by their agents lawfully authorized. In the case of a corporation, an affidavit shall be filed with the chief clerk by the agent signing that he is authorized to sign. In the case of a firm, any partner may sign in the name of the firm on behalf of the firm. Such discharge shall not be presented for signature by the debtor or by any one on his behalf to any creditor, and shall not be signed by any creditor until two months have elapsed from the commencement of the liquidation.

144. The discharge, duly signed, shall be presented to the trustee, together with an affidavit by a solicitor stating that the persons signing such discharge represent three-fourths in number and value of the creditors who have proved debts, and an affidavit of the debtor that such discharge has not been obtained by fraud or by giving any preference to one creditor over another.

145. The trustee shall report to the chief clerk the discharge of the debtor and file the same, together with the affidavits, with the chief clerk, who shall issue a certificate to the debtor in the form in the schedule.

146. Where, under section 150, Part XI., of the Statute, an application is made to the court for its sanction to the enforcement by a creditor of the payment of the balance remaining unpaid of a debt proved under the liquidation, the creditor shall file a statement, verified by affidavit, showing the dividend already paid, the balance remaining unpaid, and the property against which he seeks to enforce payment, and that such property is the property of the insolvent, and the chief clerk shall thereupon appoint a time and place for the hearing of the application, and notice of the time and place appointed for the hearing, shall be served personally on the insolvent, or at his usual or last known place of residence or business.

147. At the hearing of the application service of the notice on the debtor shall be proved, unless he appears, and the court may hear all persons claiming to be creditors of the debtor before or since the commencement of the liquidation, and make such order in the matter as it thinks fit, or adjourn the hearing for further evidence.

148. All the rules relating to proceedings of every kind under sequestration, so far as the same are applicable and do not conflict with these, and can be applied, shall be deemed to apply to proceedings under Parts IX. and X. of the Statute.

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149. When a person is required to give security, such security shall be in the form of a bond to the person proposed to be secured, with one or more sureties as the court or judge may think fit, but the security of a guarantee association or society may be given in lieu of a bond or deposit.

150. The bond of any person other than a trustee shall be taken in a penal sum to the amount of double the sum in question up to the sum of £1000, and when the sum in question exceeds £1000 in the sum of £1000 beyond such sum, unless in either case the court or judge thinks fit to order it to be taken in a less sum.

151. When a person is required to give security, he may in lieu thereof deposit with the chief clerk a sum equal to the sum in question in respect of which security is to be given, together with a memorandum to be approved by the judge, and to be signed by such person, his solicitor, or agent, setting forth the conditions on which the money is deposited.

152. The person giving the bond shall give twenty-four hours' notice to the person to be secured or his solicitor of the names and addresses of the proposed sureties, and such sureties shall make and file affidavits of justification to the amount in question, and shall, if ordered by the judge, attend before him for examination.

153. Writs of execution may be in the forms in the schedule, or as near thereto as the circumstances of the case may require, and such writs when sealed may be delivered to the sheriff or other officer to whom the execution of the like writs issuing out of the Supreme Court or County Court belongs, and shall be executed by such sheriff or other officer as nearly as may be in the same manner in which he doth or ought to execute such like writs; and for the execution of such writs such sheriff or other officer shall be allowed such fees as are or shall be from time to time allowed in like case in the Supreme Court or County Court, as the case may be.

154. Writs of execution shall be tested in the name of the judge of the district, and of the day when actually issued, and be made returnable immediately after the execution thereof.

155. The fees and costs mentioned in the schedule of fees and costs to these rules annexed may be charged and shall be paid for business done under the Statute.

156. The foregoing rules shall apply, in exclusion of all other rules heretofore made, to all proceedings commenced under the Statute; and proceedings may be in the several forms set forth in the schedule or as near thereto as possible;[a] and where forms are not provided by these rules the forms prescribed by the rules made under the "*Bankruptcy Act* 1869" (32 and 33 Vict. c. 71) may *mutatis mutandis* be used so far as they are applicable and can be applied.

157. In all cases in which any particular number of days not expressed to be clear days is prescribed by these rules or by the practice of the court the same shall be reckoned exclusively of the

(*a*) Where these forms are used they should be followed strictly.—*In re Acock*, 2 V.R. (I. E. & M.), 45.

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first day, and inclusively of the last day, unless the last day shall fall on a Sunday or holiday, in which case the time shall be reckoned exclusively of that day also.

158. In any case where anything is required to be done by these rules, or by any order of the court or a judge, within a certain period, as for instance within twenty-four hours, no part of Sunday, Christmas Day, Good Friday, the Saturday next after Good Friday, or of any day appointed by His Excellency's proclamation for a public fast, humiliation or thanksgiving, or any day on which the office of the court may be entirely closed, shall be included in the computation of such period.

159. Witnesses shall be paid the same conduct money and allowances as witnesses are entitled to by the "*Common Law Procedure Statute* 1865," and any witness may refuse to be sworn unless he has received such conduct money and expenses as the court may consider he is entitled to claim.

SCHEDULE OF FEES AND COSTS.

I.—Fees to be Paid in the Office of the Court.

	£	s.	d.
For setting down any motion or summons under section 94 of the Statute or petition or application to the court, to be paid by the party obtaining the appointment	0	10	0
For office copies, if made in the office, 2s. 6d. for the first folio of 90 words, and 4d. for every succeeding folio of 90 words.			
For office copies not written in the office, for examining and certifying, 1s. for the first folio of 90 words, and 1s. additional for each succeeding 10 folios or parts of folios.			
For signing and sealing, or signing, or sealing any document not mentioned in section 32 of the Statute	0	1	0
For signing and sealing orders of the court	0	2	6
For every summons, subpœna, or warrant	0	1	0
Upon presenting any petition for sequestration under Part III. of the Statute, if the assets on the schedule are under £100	3	0	0
Ditto, ditto, if the assets on the schedule equal or exceed £100	5	0	0
For filing any affidavit or document not being a proof of debt	0	1	0
For every debtor's summons	0	5	0
Taxing costs, 3d. in the £ upon the amount allowed by the allocatur.			
For every certificate of proxy	0	1	0
For every special meeting called at the request of creditors, to be paid by the trustee	1	0	0
For every search	0	1	0
For every order releasing an estate from sequestration	1	0	0
For every certificate of discharge of an insolvent or debtor under liquidation	1	0	0
For registration of every extraordinary resolution, not being additional or variation of original resolution, under Parts IX. or X. of the Statute, if the assets on debtor's statement are under £100	3	0	0
Ditto, ditto, if the assets on debtor's statement equal or exceed £100 ...	5	0	0
For inspecting any resolution or statement under sections 150 or 151 of the Statute	0	2	6
For every certificate of the appointment of a trustee	0	2	6
For every certificate of the discharge of a trustee	1	0	0
For setting down any petition for sequestration under Part IX. of the Statute	2	0	0
Setting down motion to sequestrate under Part X. of the Statute ...	2	0	0
For every order of transfer of proceedings	0	10	0
For all matters and things not hereinbefore provided for the same fees as are chargeable under "*The Common Law Procedure Statute* 1865."			

II.—Solicitors' Charges.

The same is allowed by the higher scale under "*The Common Law Procedure Statute* 1865."

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SCHEDULE OF FORMS.

No. 1.

DECLARATION OF INABILITY TO PAY.

The Insolvency Statute 1871.

In the Court of Insolvency.

I, the undersigned A.B., of , do hereby declare that I reside [*or* carry on business] at and that I admit that I am unable to pay my debts.

Dated this day of 187 .

(Signed) A.B.

Witness—G.H., Chief Clerk of the Court, *or* L.M., solicitor [*adding address*].

No. 2.

PETITION FOR VOLUNTARY SEQUESTRATION.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of , of , the day of A.D.

To the Court of Insolvency, the humble petition of the abovenamed showeth that he is insolvent, and desirous of surrendering his estate for the benefit of his creditors.

(Signed)

No. 3.

SCHEDULES AND AFFIDAVITS.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

I, A.B., make oath and say (1) that the statements contained in my petition herein are true.

2. That I am not an uncertificated insolvent, and that my estate has not previously been sequestrated, save and except on the * day of in the year

3. That I have not previously compounded with or made any assignment for the benefit of creditors, save and except on the † day of in the year

4. That save as hereunder appears, I am not a registered proprietor of, and that I have not and am not entitled to any land, lease, mortgage, or other interest under the *Transfer of Land Statute* 1866, either in my own right or in right of my wife ; and also that neither of us has any interest in any such property as aforesaid now under or applied to be brought under the *Transfer of Land Statute* 1866.

5. That I have kept books of account, that is to say ‡ and no others [*or if he has kept none state what documents he has, if any, and of what kind which will show the state of his affairs*].

6. That I am now in fact insolvent, and that the causes of my inability to pay my debts and to meet my engagements arise from—§

7. That I became unable to pay my debts in due course as they became due, about the , and the cause thereof was [*set out cause*].

8. That the several papers hereunto annexed, marked severally with the letters A, B, C, D, E, F, and G, contain a true and complete statement, to the best of my knowledge and belief, of the whole of my estate whatsoever and wheresoever in possession or contingency, and of all debts due to and by me, and of all securities for the same, and that I have not wilfully omitted or inserted anything contrary to the truth.

Sworn ‖

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* Here state the date of each previous sequestration.

† Here state the date of each composition or assignment.

‡ Here state name and number of books of account, or that none were kept.

§ Here state the losses, misfortune, or other occurrence that occasioned inability to pay, not the reason for presenting petition.

‖ Observe rules as to jurat under the *Common Law Procedure Statute*.

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List A.

List of Debts due to Secured Creditors.

Names, descriptions, and abodes of Creditors.	Amount due.	For what due.	On what day, month, and year contracted.*	Nature of Security given.	Value of Security when given.	Date when given.

* As to transactions more than two months old day may be omitted.

List B.

List of Debts due to Unsecured Creditors.

Names, descriptions, and abodes of Creditors.	Amount due.	For what due.	On what day, month, and year contracted.*

* As to transactions more than two months old day may be omitted.

List C.

List of Insolvent's Losses and Expenses for Two Years prior to Date of Petition.

Losses.	Amount.	Date.	Expenses.	Average Amount per month.
			Trade or professional expenses—	
			House expenses—	

List D.

Particulars of the Insolvent's Real Property at, and Two Years prior to Date of Petition.

Situation and extent of the Property, whether freehold or leasehold, in possession or expectancy.	Value.	Whether mortgaged. If so, to whom, and when.	For what Amount.	Value of his Interest if now sold.	Particulars of Landed Property sold by Insolvent within two years prior to date of petition.

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List E.

Particulars of Insolvent's Stock-in-Trade and other Personal Property.

——	Amount.

List F.

Particulars of all Debts due to Insolvent.

Names, descriptions, and abodes of Debtor.	Amount of Debt.	For what due.	What Security (if any).	On what day, month, and year contracted.*	Debts that he believes will be paid on demand when due.	Doubtful Debts.	Bad Debts.

* As to transactions more than two months old day may be omitted.

List G.

Balance-Sheet.

Debts due upon mortgage			
Debts due to unsecured creditors			
Debts due to secured creditors			
Total			
Value at present of real property			
Value at present of personal property held as security			
Value at present of personal property not held as security			
Amount of debts due to insolvent which will be paid on demand, as he believes			
Total			
Debts total			
Assets total			
Deficiency			

No. 4.

Form of Statement of Assets and Liabilities under Sections 150 and 151 of the Statute.

The statements of assets and liabilities mentioned in sections 150 and 151 of the Statute shall be in the forms above headed, lists A, B, D, E, F, and G respectively, which shall be accompanied by the list mentioned in rule 120.

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No. 5.

ORDER UPON VOLUNTARY PETITION.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of , the day of A.D. 18 .

Upon reading the petition of the said A.B., and the affidavits of , with the schedule annexed thereto, I do order that the estate of the said A.B., be placed under sequestration in the hands of , one of the assignees [*or* the trustee named in a deed of assignment executed by the said for the benefit of his creditors generally].

(Signed) , Judge [*or* Chief Clerk].

No. 6.

DEBTOR'S SUMMONS.

The Insolvency Statute 1871.

In the Court of Insolvency.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth.

To , of ,

We warn you that, unless within fourteen days after the service of this summons on you, exclusive of the day of such service, you do pay to , of , the sum of , [and to , of , the sum of , *and so on if more than two creditors*], being the sum [*or* sums] claimed of you by him [*or* them], according to the particulars hereunto annexed, for [*state consideration*], or shall compound for the same to his [*or* their] satisfaction, you will have committed an act of insolvency in respect of which a petition may be presented against you, praying that your estate may be sequestrated unless you shall have within the time aforesaid applied to the court to dismiss the summons on the ground that you are not indebted to him [*or* them] in the sum claimed, or that you are indebted to him [*or* them] in a sum less than fifty pounds.

Given under the seal of the court this day of 187 .

Chief Clerk.

[*To be indorsed on summons.*]

YOU ARE SPECIALLY TO NOTE.

That the consequences which will follow any neglect to comply with the requisitions contained in the summons are that your estate may be placed under sequestration should you not pay to or compound with him [*or* them] for the sum claimed within fourteen days from the service of this summons on you.

If, however, you are not indebted to the said C.D. [and F.K., *&c.*] in the sum claimed, or are only indebted to him [*or* them] in a sum less than fifty pounds, you must make application to the court within the like number of days to dismiss this summons, by filing with the chief clerk an affidavit stating that you are not so indebted, or only so to a less amount than fifty pounds, who will thereupon fix a day for the hearing of your application.

L.M., attorney suing out this summons, carrying on business at

Or,

This summons is sued out by C.D. [and F.K., *&c.*] in person.

No. 7.

ORDER TRANSFERRING PROCEEDINGS UNDER SECTION 10.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

the day of 18 .

Whereas the estate of the abovenamed was by order dated sequestrated [*or* adjudged to be sequestrated, *as the case may be*] and a request in writing of the majority in number of creditors who have proved debts [*or* of the assignee *or* trustee] has been presented to me under section 10 of *The Insolvency Statute* 1871. I do order that all proceedings [*or such part of the proceedings naming them*] in this case be transferred to the district of [*Ballarat, or as the case may be*].

(Signed by) Judge of the Court of Insolvency.

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No. 8.

FORM OF COMMISSION.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

Whereas the estate of the abovenamed was by order dated sequestrated [*or* adjudged to be sequestrated] and the court is desirous of having the evidence of [*names and descriptions of witnesses, if the same can be given, if not such persons as may be produced before you by and the parties obtaining or joining in the commission*] these are therefore to require and authorize you [*a chief clerk, or as the case may be*] to take and reduce to writing the examinations, cross-examinations, and re-examinations of the said [*witnesses*] touching the matters following [*specifying matters to which examinations to be directed*] and for the purpose aforesaid to administer an oath to each of the said witnesses to speak the truth, the whole truth and nothing but the truth, touching the matters aforesaid, and you are to note any objections to questions or to evidence in the margin of the depositions taken on this commission, and so far as not herein provided you are to proceed and act for the purpose of fully taking the said evidence in the same manner as if this were a commission issued out of Her Majesty's Court of Queen's Bench at Westminster, for the same purpose, and this commission shall be returned executed by the day of 187 .

Given under my hand and the seal of the court this day of 187 .

One of the judges of the Court of Insolvency.

No. 9.

ORDER TO DELIVER LETTERS.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

Whereas upon the application of , the trustee of the estate of the abovenamed , it has been proved to my satisfaction that there is reason to believe that the abovenamed has been guilty of fraud or concealment of property. I do order that, for the period of three months from the [*here insert date of order or order nisi for sequestration*], all post letters directed or addressed to the said be redirected, sent, or delivered by the Postmaster-General, or the officers acting under him, to me at [*fill in address of judge*].

Dated the day of 187 .

Judge of the Court of Insolvency.

No. 10.

AFFIDAVIT OF PROOF OF DEBT WITH OR WITHOUT SECURITY.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

I, , of , make oath and say—(1.) That the said was at the date of the order of sequestration and still is justly and truly indebted to me in the sum of for [*state consideration*], for which said sum or any part thereof I say that I have not, nor hath any person by my order or to my knowledge or belief for my use had or received any manner of satisfaction or security whatsoever, save and except the following:—

[*Here set out the particulars of the security and the value at which the creditor has assessed the same, or if bills be held specify them in the schedule.*]

Date.	Drawn.	Acceptor.	Amount.			Date when due.

Sworn at

I appoint C.D., of &c., my proxy in the above matter.

E.F. [*or* G.H. of in partnership name].

[*When affidavit is made by a clerk alter the form accordingly and add the following.*] That I am a person in the employ of C.D., and that I am duly authorized by him to make this affidavit, and that it is within my own knowledge that the aforesaid debt was incurred, and for the consideration above stated, and that such debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

Rules.

25 April 1871.

No. 11.

AFFIDAVIT OF PROOF BY AGENT OF A COMPANY.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

I, , of make oath and say—

(1.) That I am duly authorized under the seal of the [*here set out the name and style of corporation*] to make the proof of debt on its behalf in the matter of the abovenamed

(2.) That the said was at the date of the order of sequestration herein, and still is, justly and truly indebted to the said [*style of corporation*] in the sum of , for [*state consideration*] for which said sum or any part thereof the said [*style of corporation*] has not to my knowledge or belief any kind of security save and except the following:—[*Here set out the particulars of the security (if any) and the value at which the corporation assesses the same, or if bills be held specify them in a schedule.*]

Date.	Drawn.	Acceptor.	Amount.	Date when due.

No. 12.

CERTIFICATE OF APPOINTMENT OF PROXY.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

I, , do hereby certify that is the duly appointed proxy of , a creditor of the abovenamed.

(Signed)

Chief Clerk.

No. 13.

WARRANT OF ATTACHMENT BY TRUSTEE.

The Insolvency Statute 1871.

In the matter of of ,

Whereas the estate of the abovenamed was by order dated placed under sequestration in my hands [*if assignee or trustee named in order or if trustee elected or appointed*, and I was duly confirmed as trustee of such estate by order dated]: I hereby authorize you of , as my messenger, to seize and lay an attachment on the insolvent estate, and make an inventory thereof.

Assignee [*or* trustee] of the estate of the said

No. 14.

ORDER OF COMMITTAL.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

Whereas by an order of this court, dated , it was ordered [*recite order in part of order*]: Now upon application of of , and upon reading [*or* hearing] [*set out evidence*] and upon hearing for the said [*applicant*] and for the said [*the person in default*] [*or if he does not appear, so state*] this court doth adjudge and determine that the said hath been guilty of a contempt of this court by his disobedience of the said order, and this court doth therefore order that the said do stand committed to [*here insert prison*] for his said contempt.

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

Rules.

25 April 1871.

No. 15.

WARRANT OF COMMITTAL FOR CONTEMPT.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

To , and to the governor or keeper of [*here insert prison*].

Whereas by an order of this court bearing date the day of the said was adjudged guilty of contempt of court, and it was ordered that the said should stand committed for contempt of this court, for [*state contempt*]

These are therefore to require you the said to take the said and deliver him to the said the governor or keeper of the abovenamed prison, and you the said governor or keeper to receive the said and him safely keep in the said prison until such time as this court shall otherwise order.

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

No. 16.

ORDER TO INSOLVENT TO ATTEND AND BE EXAMINED, OR TO ATTEND A MEETING OF CREDITORS UNDER SECTION 126.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

Upon reading [*insert materials, if any*] this court doth order that the said do attend and be examined [*or as the case may be*] at on the day of at o'clock.

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

No. 17.

ORDER UNDER SECTION 132.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

Whereas on the application in writing of the (assignee *or* trustee) of the estate of the abovenamed , an examination sitting of the court has been appointed in the estate of the said this court doth order that the said do attend at at o'clock on the day of 187 , the time and place appointed for such sitting, and if the said does not attend the said sitting or any adjournment thereof, having no lawful impediment made known to and allowed by the court, he will be deemed guilty of contempt of this court and will be punished accordingly.

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

[*N.B.—If he is required to produce any documents in his custody or power the order should specify them with reasonable certainty.*]

No. 18.

WARRANT OF COMMITTAL FOR PREVARICATION.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

To and to keeper of the gaol at

Whereas the said having been duly summoned to appear and be examined before this court on the day of , did so appear, and being duly sworn was so examined as aforesaid: And whereas the said was during the course of such examination adjudged by the court guilty of

prevarication [*or evasion, as the case may be*]: This is therefore to authorize you, the said to apprehend the said A.B., and deliver him to the keeper of the gaol at , and you the said keeper to receive the said A.B., and him safely keep until the day of , and for so doing this shall be your sufficient warrant.

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

No. 19.

SEARCH WARRANT.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of A.B., of ,

Whereas by evidence duly taken upon oath, it hath been made to appear to the court that there is reason to suspect and believe that property of the said insolvent is concealed in the house [*or other place, describing it as the case may be*] of one X.M., of , in the county of , such house [*or place*] not belonging to the said insolvent.

These are therefore to require you to enter in the daytime into the house [*or other place describing it*] of the said X.M., situate at aforesaid, and there diligently to search for the said property, and if any property of the said insolvent shall be there found by you on such search, that you seize the same, to be disposed of and dealt with according to the provisions of the said Statute.

Given under the seal of the court this day of 187 .

By the court,

To Chief Clerk.

No. 20.

GENERAL FORM OF WARRANT AGAINST DEBTOR AND OTHERS.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

To , and to the governor or keeper of the [*here insert the prison*].

Whereas by evidence taken upon oath it hath been made to appear to the satisfaction of the court that there is probable reason to suspect and believe that the said A.B. is about to go abroad [*or* quit his place of residence] with a view of avoiding service of this petition [*or* of avoiding appearing to this petition, *or* of avoiding examination in respect of his affairs, or otherwise delaying or embarrassing the proceedings in insolvency].

[*Or* that there is probable cause to suspect and believe that the said A.B. is about to remove his goods or chattels with a view of preventing or delaying such goods or chattels being taken possession of by the trustee of the property of the insolvent [*or* that the said A.B. has concealed *or* is about to conceal or destroy his goods or chattels, or some of them, or his books, documents, or writings, or some or one of them, which books, documents, or writings, or some or one of them, may be of use to the creditors in the course of the insolvency of the said A.B.]

[*Or* whereas by evidence taken upon oath it hath been made to appear to the satisfaction of this court that the said A.B. has removed certain of his goods and chattels in his possession, above the value of five pounds, without the leave of the trustees, that is to say *(here describe the goods or chattels)*.]

[*Or* that the said A.B. did without good cause fail to attend at this court on the day of 187 , for the purpose of being examined, according to the requirements of the "*Insolvency Statute* 1871," directing him so to attend.]

[*Or* that the said A.B., upon examination under a summons issued under the "*Insolvency Statute* 1871," was adjudged guilty of contempt (*or* prevarication, *as the case may be*).]

These are therefore to require you the said to take the said A.B. and to deliver him to the governor or keeper of the abovenamed prison, and you the said governor or keeper to receive the said A.B., and him safely to keep in the said prison until such time as this court may order.

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

Rules.

25 April 1871.

No. 21.

SUBPŒNA.

Victoria by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to [*name of witness*] greeting:

We command you that all things setting aside, and ceasing every excuse, you be and appear in your proper person before the Court of Insolvency at on the day of by of the clock in the noon of the same day; [*add where production of documents required*, and also that you bring with you and produce at the time and place aforesaid, *here describe shortly the deeds, papers, letters, &c., you require to be produced*] to testify the truth according to your knowledge in a matter of a certain [motion petition *or* summons *as the case may be*] on the part of the said C.D. [*or* A.B.] and at the aforesaid day in the said matter; and hereof fail not at your peril.

Given under the seal of our Court of Insolvency the day of 187 .

Chief Clerk.

No. 22.

REQUEST IN WRITING UNDER SECTION 133.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

I hereby request that a summons under the 133rd section of "*The Insolvency Statute* 1871" may issue for the examination of [*name persons*].

K.I.,

[*Assignee or trustee.*]

No. 23.

SUMMONS UNDER SECTION 133.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of A.B., of , an insolvent.

To X.Y., of

Whereas the [trustee *or* assignee *as the case may be*] has applied to this court for a summons under the 133rd section of the "*Insolvency Statute* 1871."

You are hereby required to attend at the court-house at on the day of in the noon, to be examined in the above matter, under the provisions of the said section of the said Statute, and then and there to have and produce [*state any particular documents required*]: hereof if you fail, having no lawful impediment to be then made known to the court and allowed by it, the court may by warrant cause you to be apprehended and brought up for examination.

Dated the day of 187 .

By the court,

Chief Clerk.

No. 24.

WARRANT TO APPREHEND A PERSON SUMMONED UNDER SECTION 133.

The Insolvency Statute 1871.

In the Court of Insolvency

In the matter of A.B., of of ,

To X.Y. and

Whereas by summons dated the day of 187 , and directed to the said A.B. [*or* F.M. of *as the case may be*], he was required personally to be and appear on the day of instant, at o'clock in the noon at this court, to be examined; and which said summons was afterwards, on the day of 187 , as hath been proved upon oath, duly served upon the said , and a reasonable sum was tendered him for his conduct money and expenses: And whereas the said having no lawful impediment made known to or allowed by this court, hath not appeared before this court as by the said summons he was required, but therein has wholly made default: These are therefore to will, require, and authorize you the said , immediately upon receipt hereof, to take the said and deliver him to the said , and these are to authorize you the said to receive and safely keep the said until the day of 187 , at the hour of and then and there to have him before this court in order to his being examined as aforesaid, and for your so doing this shall be your sufficient warrant.

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

No. 25.

ESTATE BOOK.

(*Pro formâ.*)

Rules. 25 April 1871.

Dates.		Receipts or Payments.				State of Bank Account.			State of Trustee's Account.		
						£	s.	d.	£	s.	d.
1870.	March 14	*Dr.* Received cash on insolvent's desk ...				...			5	0	0
"	"	" Received balance on insolvent's deposit account				...			39	14	6
									44	14	6
"	"	*Cr.* Paid into bank account				40	0	0	40	0	0
									4	14	6
"	" 20	*Dr.* Received arrears of rent due by Jas. Johnstone	£25	0	0						
"	"	" Half-year's rent to Christmas from ditto ...	17	10	0						
"	"	" Ditto from Wm. George for shop...	27	10	0						
"	"	" Ditto from John Williams for cellar	5	0	0	...			75	0	0
									79	14	6
"	"	*Cr.* Paid into bank				75	0	0	75	0	0
									4	14	6
"	" 30	*Dr.* Received from John Thompson debt due by him	£75	16	8						
"	"	" Received from William Jones ditto	5	2	6	...			80	19	2
									85	13	8
"	"	*Cr.* Paid into bank				80	0	0	80	0	0
						195	0	0	5	13	8
"	" 31	*Dr.* Received proceeds of household furniture sold by J. Williams, auctioneer				...			150	8	4
						195	0	0	156	2	0
"	"	*Cr.* Paid into bank				150	8	4	150	8	4
"	April 3	*Dr.* Received dividends on gas shares payable on 25th March 1870 ...	£3	0	0	345	8	4	5	13	8
"	"	" Price of gas shares sold	126	0	0	...			129	0	0
									134	13	8
"	"	*Cr.* Paid into bank				126	0	0	126	0	0
									8	13	8
"	" 16	*Dr.* Received from Thomas Thomson, amount of debt due by him ...				...			8	2	4
									16	16	0
"	"	*Cr.* Paid into bank				15	0	0	15	0	0
						486	8	4	1	16	0
"	" 30	*Dr.* Received per draft on bank account...				20	0	0	20	0	0
						466	8	4	21	16	0
"	"	*Cr.* Paid to account of allowance to insolvent				...			20	0	0
									1	16	0
"	May 2	*Dr.* Received per draft on bank account...				10	0	0	10	0	0
						456	8	4	11	16	0
"	"	*Cr.* Paid rates and taxes				...			9	6	0
						456	8	4	2	10	0
"	June 1	*Dr.* Received per draft on bank account ...				30	0	0	30	0	0
"	"	*Cr.* Paid allowance to insolvent	£13	12	0	426	8	4	32	10	0
"	"	" Law expenses and miscellaneous charges ...	16	12	0	...			30	4	0
Balance in bank at 14th June 1870 (date of audit), exclusive of interest from commencement of account, to be ascertained at the end of the year						426	8	4			
Balance in the trustee's hands at 14th June 1870						...			2	6	0
Add balance in bank as above						...			426	8	4
Total balance of assets realized in favor of the estate as at 14th June 1870						...			428	14	4

(Signed) G.H., Trustee.

Rules.

25 April 1871.

No. 26.

WRIT OF FIERI FACIAS ON AN ORDER FOR PAYMENT OF DEBT.

The Insolvency Statute 1871.

In the Court of Insolvency.

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to the Sheriff of , greeting:

Whereas by an order of the Court of Insolvency, dated the day of in the year of our Lord 18 , and made in the matter of [*insert the title of the order*], it was ordered that the said C.D. should pay to A.B., the trustee of the estate and effects of the said , the sum of £ forthwith [*make this conformable to the order*]: And whereas we are given to understand that the said sum of [*or* that the sum of £ part of the said sum of £] is still unpaid: Now we command you that of the real and personal estate of the said C.D. in your bailiwick you cause to be made the said sum of £ [*insert the sum to be levied*], and that of the real and personal estate of the said C.D. in your bailiwick you further cause to be made interest upon the sum of £ [*if any*]: And that you have that money and interest before the court immediately after the execution hereof, to be paid to the said A.B., trustee as aforesaid, in pursuance of the said order: And that you do all such things as by the Statute you are authorized and required to do in his behalf: And in what manner you shall have executed this our writ make appear to our said court immediately after the execution thereof, and have there then this writ.

Witness— esquire, one of the judges of the said court, the day of 187 , at

Given under the seal of the court this day of 187 .

No. 27.

WRIT OF FIERI FACIAS ON AN ORDER FOR PAYMENT BY INSTALMENTS OF DEBT DUE TO THE ESTATE OF INSOLVENT.

The Insolvency Statute 1871.

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to the Sheriff of , greeting:

Whereas by an order of the court, dated the day of in the year of our Lord 18 , made in the matter of [*insert the title of the order*], reciting [*as the case may be*], it was ordered that the said C.D. should pay to A.B., the trustee of the estate and effects of the said insolvent, in full discharge of the said sum of £ , the sum of £ in manner following, that is to say, by instalments of £ each, the first whereof was to be made on the day of , and it was ordered that in default of payment of any of the said instalments, the whole sum then remaining unpaid should immediately become payable and be paid: And whereas we are given to understand that default was made in payment of one of the said instalments, and thereupon the said sum of £ which then remained unpaid [*or* the sum of £ , being the portion of the sum so ordered to be paid which then remained unpaid, *according to the facts*] immediately became payable, but the same has not been paid: Therefore we command you that of the real and personal estate of the said C.D. in your bailiwick you cause to be made the said sum of £ [*insert here the sum to be levied*], and that of the real and personal estate of the said C.D. in your bailiwick you further cause to be made interest [*proceeding as in the former form.*]

No. 28.

GAZETTE NOTICE OF APPLICATION FOR CERTIFICATE UNDER SECTION 135.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of , of ,

The abovenamed , intends to apply to the Court of Insolvency on the day of 187 , at o'clock, for a certificate of discharge pursuant to the provisions of the "*Insolvency Statute* 1871."

(Signed)

No. 29.

NOTICE TO ASSIGNEE OR TRUSTEE OF INTENTION TO APPLY FOR CERTIFICATE.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of , of

Take notice that I intend to apply on the day of 187 at o'clock for a certificate of discharge.

(Signed)

[*With full address.*]

Rules.
25 April 1871.

No. 30.

CAVEAT AGAINST GRANT OF CERTIFICATE.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

Let nothing be done on the application for a certificate of the abovenamed without notice to me.

(Signed) X.Y.
[*Address in full.*]

No. 31.

NOTICE OF OPPOSITION BY CREDITOR.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

To the abovenamed insolvent.

I [*or as the case may be* we] intend to oppose the grant of a certificate of discharge to you on the grounds following:—

(1.) That you have not kept reasonable accounts or entries of your receipts and payments [*&c. as the case may be*].

(Signed)

No. 32.

ORDER GRANTING A CERTIFICATE.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

Whereas the said has made his application for a certificate of discharge upon reading the *Gazette* notice of such application [*insert depositions and other evidence relied on*] and upon hearing the said [*or* his counsel *or* attorney] and in opposition [*or* his counsel *or* attorney] this court doth order that a certificate of discharge do issue to the said

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

No. 33.

FORM OF CERTIFICATE OF DISCHARGE.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

Be it known to all men by these presents, that whereas the estate of the said was, by order dated , sequestrated for the benefit of his creditors, this certificate of discharge from all debts provable under his insolvency has been granted to him, and he is hereby discharged from all such debts [*if upon conditions state them*] from the day of the date hereof.

Given under the seal of the Court of Insolvency this day of 187 .

(L.S.)

Chief Clerk.

No. 34.

ORDER REFUSING A CERTIFICATE.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

Upon reading the *Gazette* notice of the application of the abovenamed for a certificate and upon reading the [*insert the evidence*] and upon hearing [the insolvent *or* his counsel *or* attorney and the opponent his counsel *or* attorney *or if unopposed*] this court having considered the evidence in this case doth adjudge that the said has been guilty of the offences following, that is to say [*set out offences*] and doth order that the application for a certificate be suspended [*or refused as the case may be*] for the period of months from this date, and this court doth further order that the said be imprisoned in Her Majesty's gaol at for the space of months from the day of the date hereof [with hard labor].

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

Rules. 25 April 1871.

No. 35.

WARRANT UPON ORDER REFUSING CERTIFICATE, AND SENTENCING TO IMPRISONMENT.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

To and

Whereas by order dated the certificate of discharge of the abovenamed was suspended (*or* refused), and the said was adjudged guilty of the offences following, that is to say [*set out offences*] and was ordered to be imprisoned for months [with hard labor]; these are therefore to require you the said to arrest and deliver the said to the said the governor or keeper of Her Majesty's gaol at and these are to require you the said to receive and keep in custody [and keep to hard labor] the said for the space of from the day of the date hereof; and for so doing this shall be your sufficient authority.

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

No. 36.

FORM OF INFORMATION UNDER SECTION 144.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

I the undersigned , of inform the court that of , has obtained a sum of money to wit £500 [*or* certain goods *or* securities for money *as the case may be*] from , for forbearing to oppose the allowance of a certificate of discharge to the abovenamed [*or* for consenting to the allowance of &c.] and the said has thereby rendered himself liable to forfeit treble the value or amount of the said

(Signed) K.Q.

[*The following notice to be added to office copy for service.*]

Take notice that this information will be heard on the day of 187 at o'clock at when an order may be made against the said for payment of the said treble value or amount to the said

No. 37.

ORDER UNDER SECTION 144.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of , of

The day of 187 .

Upon reading the information of dated whereby it was alleged that of had [*as in information*] upon hearing the evidence of the witnesses on behalf of the said , and in support of the said information and upon hearing the said [*or* his counsel *or* attorney *as the case may be*] and the said [*or* his counsel *or* attorney *as the case may be*], this court doth order that the said do forfeit and pay to the said the sum of £ , being treble the value or amount of the said mentioned in the said information, and that such sum be paid to the said on or before the day of 187 .

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

No. 38.

AFFIDAVIT OF INFORMER UNDER SECTION 144.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of , of

I, , of , make oath and say—

(1) That I believe the statements contained in the information dated , and signed by me, to be true.

Sworn, &c.

Rules.

25 April 1871.

No. 39.

WARRANT TO HOLD TO BAIL UNDER SECTION 145.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

To of and to

the governor or keeper of Her Majesty's gaol at

Whereas the abovenamed has applied to this court for a certificate of discharge, and such application is now pending and is opposed: And whereas the court has required the said to find bail with two sufficient sureties to attend upon the day of at o'clock, the day appointed for giving judgment on the said application, and the said has made default in giving such bail; these are therefore to require you the said to take the said and deliver him safely to the said and these are to require you the said to receive and safely keep the said until the day of 187 , at the hour of , the day appointed for giving judgment on the said application, and then to have the said before this court at

Given under the seal of the court this day 187 .

By the court,

Chief Clerk.

No. 40.

ORDER UNDER SECTION 146.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

Upon the application of [*as the case may be*], it appearing that the abovenamed has not applied for his certificate within six months from the date of the order of sequestration of his estate, I do hereby order the said to attend before the court on the day of 187 , at o'clock, at to have the question of a grant or refusal of his certificate dealt with, as by the said Statute provided.

Judge of the Court of Insolvency.

No. 41.

WARRANT UNDER SECTION 146.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

To and the governor or keeper of Her Majesty's gaol at

Whereas the abovenamed , whose estate was sequestrated [*or* adjudged to be sequestrated, *as the case may be*] on the day of 187 , has not within six months after sequestration applied for his certificate: And whereas the said was by order dated , made by esquire, one of the judges, on the application of [trustee *or as the case may be*] required to appear before the court on the day of 187 : And whereas the said neglected to do so, these are therefore to require you the said to arrest and deliver the said to the said And these are to require you the said to receive and safely keep in your custody at the said person until the day of 187 , at o'clock, and then to have the said before this court at

Given under the seal of the court this day of 187 .

By the court,

Chief Clerk.

Rules.

25 April 1871.

No. 42.

FORM OF ORDER CONFIRMING TRUSTEE.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

Upon reading the acceptance in writing of of , of the office of trustee of the estate of the abovenamed [*and if security given*, it appearing that the requisite security has been given]: It is ordered that the [election *or* appointment, *as the case may be*] of the said in the place of the assignee [*or* trustee named in the order of sequestration be confirmed].

Given under the seal of the court this day of 187 .

By the court,

X.Y., or K.W.,
Judge or Chief Clerk.

No. 43.

PETITION UNDER SECTIONS 150, 151.

The Insolvency Statute 1871.

In the Court of Insolvency.

The humble petition of A.B., of &c., showeth—

That your petitioner alleges that he is unable to pay his debts, and is desirous of instituting proceedings for liquidation of his affairs by arrangement or composition with his creditors, and hereby submits to the jurisdiction of this court in the matter of such proceedings.

Your petitioner therefore prays that such resolution or resolutions as his creditors may lawfully pass in the course of such proceedings, and as may require registration, may be duly registered by the Chief Clerk of the court.

And your petitioner shall ever pray, &c.

Signed by the petitioner A.B., on the day of 187 , in the presence of

Chief Clerk or Solicitor. (*Address.*)

[*If the petition be by partners alter the form accordingly.*]

No. 44.

AFFIDAVIT IN SUPPORT OF PETITION UNDER SECTIONS 150, 151.

The Insolvency Statute 1871.

In the Court of Insolvency.

I, A.B., of , make oath and say, as follows :—

I am the [*or* one of the] petitioner [*or* petitioners] named in the petition hereunto annexed.

I verily believe that it will be most convenient to the creditors whose debts exceed twenty-five pounds that the general meeting should be held at

Sworn at A.B.

[*Where an attorney is employed add the following certificate*:—]

I certify my belief that it will be most convenient to the creditors of the petitioner that the general meeting should be held at [*as above*].

C.D., solicitor in the matter of the petition.

No. 45.

NOTICE TO CREDITORS OF GENERAL MEETING.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by A.B. of [*description as in petition*].

A general meeting of the creditors of the abovenamed person [*or* persons] is hereby summoned to be held at [*here insert name of town and street or place*] on , the day of , instant [*or* next], at o'clock in the noon precisely.

A form of proof and proxy will be found on this notice.

Dated the day of 187 .

(Signed) A.B. [Debtor], *or*
C.D. [*adding address*], attorney for the said debtor.

[*In case of partnership the notice must be signed by one of the partners in the partnership name, or by all the partners, or by a solicitor or solicitors on their behalf.*]

FORM OF PROOF AND PROXY TO BE ANNEXED TO THIS NOTICE.

In the Court of Insolvency.

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by A.B., of, &c.

I, of make oath and say as follows :—

The said A.B. was at the date of the institution of the said proceedings, and still is, justly and truly indebted to me in the sum of for [*state consideration*], for which said sum, or any part thereof, I say that I have not, nor hath any person by my order or to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following :—[*Here set out security, or if bills be held specify them in the schedule.*]

Date.	Drawn.	Acceptor.	Amount.	Due Date.

Sworn at

I appoint C.D., of &c., my proxy in the above matter.—E.F. [or G.H., of in partnership name].

No. 46.

FIRST GENERAL MEETING WHERE LIQUIDATION BY ARRANGEMENT RESOLVED ON.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by

We, the undersigned, being the statutory majority of creditors, assembled at the general meeting in the above matter, duly held at , this day of 187 , in accordance with the provisions of the said Act, do hereby resolve as follows :—

(1.) That the affairs of the said shall be liquidated by arrangement and not in insolvency.

(2.) That be and he is hereby appointed trustee.

(3.) That be and they are hereby appointed a committee of inspection [*or in lieu of* 2 *and* 3, *the following* :—That a subsequent meeting be held at , on , at o'clock a.m. [*or* p.m.] precisely, for the appointment of a trustee with or without a committee of inspection].

(4.) That be entrusted with the registration of this resolution.

[*Here follow signatures of creditors.*]

F.K., Chairman.

No. 47.

FIRST GENERAL MEETING WHERE COMPOSITION RESOLVED ON.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of proceedings for or towards the liquidation by arrangement or composition with creditors instituted by A.B. of , &c.

We, the undersigned, being the statutory majority of creditors assembled at the first meeting in the above matter, duly held at , this day of 187 , in accordance with the provisions of the said Act, do hereby resolve as follows :—

(1.) That a composition of in the pound shall be accepted in satisfaction of the debts due to the creditors from the said A.B.

(2.) That such composition be payable as follows :—[*here state whether the same is to be payable in one payment or by instalments, and at what date from the second meeting*].

(3.) That the security of C.D. be accepted for the said composition [*or* the instalment thereof], or that the said composition [*or* the instalments thereof] be secured to the satisfaction of E.F. and G.H.

(4.) That I.K. be appointed trustee in the matter.

[*Here follow signatures of creditors.*]

F.K., Chairman.

Rules.

25 April 1871.

No. 48.

NOTICE CONCERNING SECOND GENERAL MEETING.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by A.B., of &c.

A second general meeting of the creditors of the abovenamed person [*or* persons] is hereby summoned to be held at on , the day of instant [*or* next], at o'clock in the noon precisely. A majority in number and value of the creditors then assembled may confirm the resolution come to at the first general meeting, or a majority in number representing three-fourths in value of such creditors may by resolution declare that the affairs of the abovenamed person [*or* persons] may be liquidated by arrangement and not in insolvency.

Dated the day of 187 .

(Signed) A.B. (Debtor), *or*
C.D. [*adding address*], attorney for the said debtor.

No. 49.

RESOLUTION AT SECOND GENERAL MEETING.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of proceedings for or towards the liquidation by arrangement or composition with creditors instituted by A.B., of , &c.

We, the undersigned, being the statutory majority of creditors assembled at the second meeting in the above matter, duly held at , this day of 187 , in accordance with the provisions of the said Act, do hereby confirm the resolution passed by the statutory majority of the creditors of the said A.B. assembled at the first meeting [*or* do hereby resolve that the affairs of the said A.B. be liquidated by arrangement and not in insolvency]. [*And following on as in the form provided for resolution at the first general meeting, where liquidation by arrangement is resolved on.*]

F.K., Chairman. [*Here follow signatures of creditors.*]

No. 50.

TO BE ADDED TO STATEMENT OF AFFAIRS IN CASES UNDER SECTION 150 OR 151 WHERE NECESSARY.

List of bills of exchange, or promissory notes, on which the debtor is liable, and of the holder whereof he is ignorant.

Acceptor's Name.	Name of person to whom payable.	Due Date.	Amount of Bill or Note.	Here state any other particulars within the debtor's knowledge respecting the Bill or Note.
	Total to be added to list of unsecured creditors ..		£	

No. 51.

FORM OF AFFIDAVIT TO BE USED UPON REGISTRATION OF AN EXTRAORDINARY RESOLUTION.

In the Court of Insolvency.

In the matter of proceedings for liquidation by arrangement or composition with creditors instituted by A.B., of &c.

I, the abovenamed A.B. [*or* C.D., of *&c., as the case may be*], make oath and say as follows:—

1. That I verily believe that the resolutions, statement of affairs, proofs, and proxies filed in this matter are the whole of the resolutions, statement, proofs, and proxies come to and produced at the general meeting [*or* meetings] held in this matter on the day of , (and the day of).

2. [*In cases of composition.*] That I verily believe that the gross amount of composition payable to my creditors [*or* to the creditors of the said A.B.] does not exceed £

Sworn, &c.

Rules.

25 April 1871.

No. 52.

CERTIFICATE OF TRUSTEE'S APPOINTMENT.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of an extraordinary resolution for liquidation by arrangement of the affairs of A.B., of &c.

This is is to certify that C.D., of &c., has been appointed, and is hereby declared to be trustee under this liquidation by arrangement.

Given under my hand and the seal of the court this day of 187 .

Chief Clerk.

No. 53.

CERTIFICATE BY CREDITORS OF DEBTOR'S DISCHARGE.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of the liquidation by arrangement of &c.

We, the undersigned, being three-fourths in number and value of the creditors of the abovenamed who have proved debts, hereby discharge the said from all debts provable under the said liquidation.

(Signed)

No. 54.

REPORT OF TRUSTEE AS TO DEBTOR'S DISCHARGE.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of the liquidation by arrangement of &c.

I, the trustee [*or*, We, the trustees] under the said liquidation, certify that I have examined the discharge of the said and find that the same is duly signed by the statutory majority of creditors in number and value.

(Signed) K.Z., trustee.

No. 55.

DEBTOR'S DISCHARGE UNDER SECTION 150.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of the liquidation by arrangement of A.B., of &c.

Whereas the trustee under the said liquidation has certified and reported to me that [*here follow certificate of trustee*].

I do, therefore, hereby certify such discharge in pursuance of the Statute in that behalf.

Given under my hand and the seal of the court this day of 187 .

Chief Clerk.

No. 56.

FORM OF NOTICE OF MEETING UNDER THE 53RD SECTION OF THE STATUTE.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

Notice is hereby given that the estate of the said has been sequestrated [*or* adjudged to be sequestrated *as the case may be*] and that a meeting of creditors has been appointed to be held at on the day of 187 , at the hour of for the election of a trustee or trustees, not exceeding two, and of a committee of inspection, and to give directions as to the management of the estate in pursuance of the 53rd section of the said "*Insolvency Statute* 1871."

Dated the day of 187 .

(Signed)

Chief Clerk.

N.B.— of is the assignee [*or* trustee] named in the order, and of is the solicitor for the creditors.

Rules.

25 April 1871.

No. 57.

SUMMONS UNDER SECTION 94.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

To [*insert defendant's name, address, and occupation*].

You are hereby summoned to appear before the Court of Insolvency at on the day of 187 , at o'clock to show cause why you should not pay to me the undersigned as [assignee *or* trustee] of the insolvent estate of the above-named the sum of £ alleged by me to be due from you to the insolvent estate of the said the particulars of such debt are hereto annexed [*annex particulars*].

(Signed) X.Y.

Assignee *or* Trustee of the estate of the said

NOTE.—If you admit the whole or any part of this debt you may pay into court such sum of money as you may think a full satisfaction of the debt, payment whereof is claimed by this summons, together with £ costs within days before the said day of [*the day appointed for the hearing*] and by so doing you will avoid any further expense, unless I succeed in proving a demand against you exceeding the sum paid into court by you.

If you have any defence to this summons you must give notice thereof, in writing, stating the grounds, legal and equitable, to me at [*insert an address*] days at least before the said day of [*the day appointed for the hearing*].

You may have subpœnas for the attendance of witnesses by applying to the Chief Clerk of the court at the court-house at

---

No. 58.

FORM OF NOTICE OF MOTION.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

Take notice that it is the intention of of [*state address fully*] to apply to the Court of Insolvency at on the day of at the hour of for an order as follows [*set out particulars of what desired*] on the grounds following, that is to say [*here set out grounds legal or equitable*].

(Signed) K.Q. in person, *or*
Solicitor for the said K.Q.

NOTE.—If you desire to oppose this application you must deliver a notice, in writing, at the address following [*set out address*] on or before

You may pay into court [*here follow as nearly as may be as in a summons under section* 94].

You may have subpœnas for witnesses by applying to the Chief Clerk of the court at

---

No. 59.

FORM OF NOTICE OF DEFENCE.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of ,

Take notice that I intend to oppose the [motion *or* summons *as the case may be*] dated [*or* such portion as relates to] on the grounds following [*here state all legal or equitable grounds relied on*].

[*If the case add* I have paid £ into court in full satisfaction, *or as the case may be*].

(Signed) J.G., *or*
Attorney for the said J.G.

Rules.

25 April 1871.

No. 60.

FORM OF NOTICE UNDER SECTION 129 OR 130.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

Take notice that it is my intention on the day of at to apply to the court for a release of my estate from sequestration.

(Signed)

[*If under s.* 129 *add*—If you have not already proved your debt you should do so at once. The composition offered is (*state composition*). And take notice that if three-fourths in number and value of creditors who have proved debts before the date of such application consent in writing to accept the said offer the court may release my estate from sequestration.]

No. 61.

FORM OF PETITION OF CREDITOR WHO HAS HAD NO NOTICE OF LIQUIDATION OR COMPOSITION.

The Insolvency Statute 1871.

In the Court of Insolvency.

In the matter of of

To the Court of Insolvency.

The humble petition of of showeth that

(1.) That the abovenamed is justly and truly indebted to your petitioner in the sum of £ for [*set out debt and cause thereof*].

(2.) That I had no notice of the meeting held on the day of at which it was agreed that the affairs of the said should be liquidated by arrangement [*or if a composition* the composition of be accepted].

Your petitioner therefore prays that this honorable court will order that the said liquidation [*or* composition] be not proceeded in, and that the estate of the said may be sequestrated for the benefit of his creditors.

(Signed)

No. 62.

BOND ON STAY OF PROCEEDINGS.

The Insolvency Statute 1871.

Know all men by these presents that we, A.B. of &c., and C.D. of &c., and E.F. of &c., are jointly and severally held and firmly bound to L.M. of &c., in pounds to be paid to the said L.M., or his certain attorney, executors, administrators, or assigns. For which payment to be made we bind ourselves and each and every of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this day of One thousand eight hundred and

Whereas the said A.B. having been duly served with a debtor's summons by L.M. of in accordance with provisions of the "*Insolvency Statute* 1871," applied to the said court to dismiss such summons on the ground that he was not indebted to the said L.M. [*or* that he was not indebted to him to such an amount as would support a petition for sequestration].

Now, therefore, the condition of this obligation is such that if the above bounden A.B., or the said C.D. or E.F., shall on demand well and truly pay or cause to be paid to L.M. his attorney, such sum or sums as shall be recovered against the said A.B. by any proceedings taken or continued within twenty-one days from the date hereof in any competent court by the said L.M. for the payment of the debt claimed by him in the said debtor's summons, together with such costs as shall be given to the said L.M. by such court, this obligation shall be void, otherwise shall remain in full force.

A.B. (L.S.)
C.D. (L.S.)
E.F. (L.S.)

Signed, sealed, and delivered by the above bounden in the presence of

NOTE.—*If a deposit of money be made the memorandum should follow the terms of the conditions of the bond.*

ARCHD. MICHIE.
W. B. NOEL.
SAMUEL H. BINDON.

Rules.

COURT OF INSOLVENCY.—AMENDING RULES.

6 Oct. 1871.

In pursuance of the powers and authorities conferred by the "*Insolvency Statute* 1871," we, the Honorable Robert Walsh, Her Majesty's Attorney-General for Victoria; Wriothesley Baptist Noel, Esq.; and the Honorable Samuel Henry Bindon, being the Law Officer and two of the Judges of the Court of Insolvency appointed by the Governor in Council, under the provisions of the said Statute, to frame the Rules of Practice of the said court for the purposes in the said "*Insolvency Statute* 1871" mentioned, do order and direct that the rules 13, 16, 17, 19, 21, 22, 37, and 99 be repealed; and that the following shall be the rule instead of rule 13:—

Debtor's Summons.

1. As to a debtor's summons the following rules shall be made:—

(I.) A debtor's summons, according to the form in the schedule, may be granted by the court.

(II.) A creditor desirous that a debtor's summons may be granted must file an affidavit of the truth of his debt, and lodge the summons.

(III.) The particulars of demand shall be expressed with reasonable and convenient certainty as to dates and all other matters, but no objection shall be allowed to the particulars unless the court shall consider that the debtor has been misled by them.

(IV.) Every debtor's summons shall have the name and place of business of the attorney actually suing out the same; but in case no attorney shall be employed for the purpose, then with a memorandum expressing that the same has been sued out by the creditor in person.

(V.) There shall be on the debtor's summons, in addition to an intimation of the consequences of neglect to comply with the requisitions of the summons, a notice to the debtor that, if he disputes the debt and desires to obtain the dismissal of the summons, he must file an affidavit with the chief clerk within fourteen days, stating that he is not so indebted, or only so to a less amount than £50.

(VI.) Where a debtor files the above mentioned affidavit, the chief clerk shall fix the time and place at which the application for the dismissal of the summons will be heard by the court, and give notice thereof to the creditor and debtor three days before the day so fixed.

(VII.) Where proceedings on a debtor's summons have been stayed for the trial of the question of the validity of the debt claimed therein, and such question has been decided against the validity of the debt, the debtor shall be entitled to have the debtor's summons dismissed with or without costs; but the order for such costs shall not be enforced for seven days, or where the creditor has lodged a notice showing that he has taken the necessary

Rules.

6 Oct. 1871.

steps to set aside the judgment, until after the final decision thereon.

(VIII.) Where the proceedings on a debtor's summons have been stayed for the trial of the question of the validity of the debt claimed therein, and such question has been decided in favor of the validity of the debt, the creditor shall be entitled to an order of the court refusing the application of the debtor to dismiss the summons with or without costs.

(IX.) When proceedings on a debtor summons have been stayed upon security being given, the creditor shall take or continue proceedings for the payment of the debt within twenty-one days from the date on which the security was completed, or if no such security was ordered or given then within twenty-one days from the date of the order staying proceedings on the summons, and if he fail to do so the debtor shall be entitled to have the summons dismissed with or without costs.

(X.) Where proceedings on a debtor summons have been stayed upon security being given, if the debtor do not within the specified time enter into the bond to the creditor or other security required by the court, the creditor shall be entitled to an order of the court refusing the application of the debtor to dismiss the summons with or without costs.

That the following shall be the rule instead of rule 16 :—

2. When proceedings on a debtor's summons have been stayed pending the trial of the question of the validity of the creditor's debt, the creditor or debtor may, after the proceedings in the trial of such question have terminated, set down the summons for further order of the court on a day to be fixed by the chief clerk.

That the following shall be the rule instead of rule 19 :—

3. All applications to the court relating to any claim to the recovery of possession of property or to damages shall be by notice of motion, which shall contain the name of the person against whom such application is made, and all grounds of equitable or legal claim intended to be relied on, and all necessary particulars of the object of the motion and of the property sought to be recovered or affected, or the amount of the damages claimed.

That the following shall be the rule instead of rule 21 :—

4. If any such notice of motion or summons be opposed, notice thereof shall be served upon the applicant at the address given in the notice of motion or summons seven clear days at least before the time fixed for the hearing. Every such notice of defence shall contain all grounds of legal or equitable defence intended to be relied on and the address of the defendant or his solicitor, and service at such address shall be deemed sufficient.[a]

(a) Advantage cannot be taken by an applicant of the omission to serve him with notice of opposition, where he is himself in default, by his omitting the foot-note to Form 58, *ante*, p. 2948.—*In re Acock*, 2 V.R. (I. E. & M.), 45.

Rules.

6 Oct. 1871.

That the following shall be the rule instead of rule 37 :—

5. Every affidavit to be used in obtaining, supporting, or opposing any motion or order for showing cause for or against any order or rule of court shall be filed with the chief clerk.(a)

And that the following shall be the rule instead of rule 99 :—

6. If an insolvent cannot truly state that his estate has paid or will pay seven shillings in the pound, he shall, instead of filing the affidavit required generally by rule 98, file an affidavit setting out the true circumstances of his case, and that his estate has not and will not be able to pay seven shillings in the pound,(b) and he must serve notice upon the trustee that he intends to apply to the court upon the day appointed for the hearing of the application for a certificate of discharge to dispense with the condition mentioned in section 136 of the Statute, and the trustee or any creditor may be heard in opposition to such application to dispense with such condition. The trustee shall give notice of any such application to any creditor who has lodged a caveat.

And the following shall be rules in addition to the rules now in force :—

7. If the court shall in any case be of opinion that it would be desirable that a person should be appointed to take down, in shorthand or otherwise, the evidence of the insolvent, or of any witness examined at any public sitting of the court under this Act, it shall be competent for the court to make such an appointment, and every person so appointed shall be paid a sum not exceeding one guinea per day, and when the court appoints a shorthand writer, a sum not exceeding one shilling per folio of ninety words of any transcript of the evidence that may be required, and such sums shall be paid by any party at whose instance the appointment was made, or out of the estate, as may be directed by the court.

8. Whenever an order of a judge is appealed against, the appellant or the solicitor for the appellant shall forthwith obtain, make, and prepare, at his own cost and charges, a fair copy of the judge's notes of the evidence taken before him in the matter of such order, and shall, as soon as may be, send or deliver the same to the judge, to be by him forwarded to the Supreme Court together with a statement of his reasons for making such order.

ROBERT WALSH.
W. B. NOEL.
SAMUEL H. BINDON.

Melbourne, 6th October 1871.

(a) This rule does not apply to affidavits of service of notices.—*In re Fisher*, 2 A.J.R., 130; s.c., 2 V.R. (I.E. & M.), 33.

In matters of appeal the affidavits when made for the purpose of being used in the Supreme Court, ought to be filed and kept in Melbourne; and those made for the purpose of being used in any district, if sent to Melbourne for the purpose of an appeal, should be returned to the district office.—*Ex parte Rolfe and Bailey*, 2 W. & W. (I. E. & M.), 16.

(b) In a proceeding under section 146 of the Act the court can grant an unconditional certificate to an insolvent who has not filed the affidavit required by this rule.—*In re Frankel*, 4 A.J.R., 140.

RULES

OF

THE COURTS OF MINES

AND FOR

PROCEEDINGS BEFORE WARDENS,

MADE IN PURSUANCE OF THE

"MINING STATUTE 1865,"

20 VICT. No. 291 s. 233, ANTE, P. 1510.

RULES OF THE COURTS OF MINES.

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GENERAL RULES FOR COURTS OF MINES.

Rules.

6 April 1866.

WHEREAS by the Mining Statute of 1865, section 233, it is enacted that it shall be lawful for the Chief Judge of Courts of Mines and any two or more of the judges of the courts of mines, from time to time, but subject to the said Act, to frame such general rules as to them shall seem expedient for and concerning, and so far as not therein provided, for the pleadings, practice, and proceedings of the court holden under the said Act, either in their original or appellate jurisdiction, and for the execution of the process of such courts, and in relation to any of the provisions of the said Act which relate to the courts to be holden thereunder, as to which there may arise any doubts; and also to frame forms for every matter or proceedings in the said courts for which they shall think it necessary for a form to be provided and not therein already provided for; and for and concerning the fees to be paid to barristers-at-law, attorneys practising in the said courts, and the expenses to be paid to witnesses in said court: Now we, the undersigned, the said chief judge and judges of the courts of mines, in pursuance of the said power, do make and declare the rules following, and declare that the schedule thereunto annexed shall be read in connexion therewith, and as part thereof, and that the same shall commence and come into operation from the first day of May next.

Rules.

6 April 1866.

VENUE.

1. Every suit in a court of mines shall be commenced in the district and division where the subject matter of dispute, if land, or an interest in land, lies, or where a sole defendant resides; but if there are several defendants the suit may proceed in the district and division in which any of them reside, with power, however, in the latter case, for the judge to stay proceedings, with or without costs, in order that proceedings may be taken in a district or division more convenient regarding the residence of the defendants and witnesses, or to direct that any suit or proceeding may be heard, transferred, or adjourned to some other division in the same district.

SERVICE OF SUMMONS.

2. Summonses may generally be served under the 111th section of the Act, personally or at the dwelling of the defendant, upon any inmate of years of discretion, or at the place of business of the defendant upon his servant or agent there employed.

3. An affidavit of service by the person making the same must be indorsed upon, or written under, a copy of the plaint and summons served, describing how the same has been served, and no cause shall be set down for hearing, or if set down, called on without such affidavit, unless service be admitted.

4. If any dispute shall arise, or the judge shall entertain any doubt as to the due service of any summons, the judge shall be at liberty to examine witnesses, and to decide whether such service has been good or otherwise, and either to proceed to hear or defer the hearing as he shall think fit; or, under special circumstances, to order that a person insufficiently served shall be deemed a defendant under such terms as he shall think fit.

PARTICULARS OF DEMAND.

5. If a defendant shall require further particulars of the demand or of the relief sought under the plaint, he may take out a judge's summons calling on the plaintiff for such further particulars, and the judge shall thereon make such order as he shall see fit.

PAYMENT IN AND OUT OF COURT.

6. Payment into court, under the 113th and 114th sections, in suits without written pleadings, must be made six days before the summons is returnable, and the blank in the form in the Tenth Schedule to the Act shall be filled accordingly; but the judge may, under special circumstances, before or after the proper time is expired, at his discretion, enlarge the time for payment into court for any definite time.

7. Payment into court, under the 113th and 114th sections, in suits with written pleadings, must be made six days before the time for answering is expired, and the blank in the form of the Eleventh Schedule to the Act shall be filled accordingly.

8. Payment into court shall in no case be taken to admit the cause of complaint.

9. A defendant after payment of money into court under the 114th section, may cause notice thereof to be given to the plaintiff in person, or at his usual or last known place of abode or business.

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10. A plaintiff drawing money out of court, paid in under the 114th section, shall be required, before receiving the same, to leave with the clerk a memorandum signed by himself or his attorney, stating whether he does or does not elect to proceed.

11. A plaintiff not leaving such memorandum with the clerk within three days after he has received notice of payment into court, either from the defendant, or the clerk, and afterwards electing not to proceed, shall be liable for all costs properly incurred by the defendant preparing for his defence after such payment into court.

Amending Plaint.

12. The plaintiff may, under the 135th section, at any time before an answer shall be delivered, amend his plaint, as he may be advised (subject as to all such amendments after the first to a power in the judge to set aside the same as unnecessarily causing delay or expense), and shall thereupon, at his own expense, deliver a copy of the same to the defendant defending in person, to be served in the same manner as the original plaint, or to his attorney, where the defendant defends by attorney; and the defendant shall have the same time to object or answer, after the service of such copy, as he had from the service of the original plaint; and in cases where the defendant shall amend his answer, the plaintiff shall have the same time to proceed to the hearing of the cause as after the delivery of the original answer.

Time for Answering and Objecting.

13. That the time for notice of objection under the 116th section, and for answering under the 117th section, shall be twenty-one days, and the blank in the form in the Eleventh Schedule to the Act shall be filled accordingly; but the judge may, under special circumstances, before or after the proper time is expired, at his discretion, enlarge the time for any definite time.

Entry and Notice of Hearing.

14. That the plaintiff may enter a cause for hearing under the 121st section, by delivering a written request for the same to the clerk of the judge or court, and procuring him to make an entry thereof, and of the day upon which the cause is to be heard, in the book kept for that or that and other purposes.

15. That the service of notice of hearing, required by the 122nd section, shall be, as to defendant's pleading by attorney, on the attorney personally or at his office, and as to defendant's pleading in person, in like manner as provided by rule 2, as to the service of summons, and as to defendants who have omitted to plead by posting such notice in the office of the clerk of the court, such service to be proved by affidavit before making any order upon hearing against persons not appearing at the same.

Notice Disputing Facts.

16. In suits without written pleadings against assignees of an insolvent, executors, or administrators, or trustees, or persons authorized by Act of Parliament or Council to be sued as nominal parties, the character in which the defendant is stated in the plaint to be sued shall be taken to be admitted unless denied by notice.

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17. All such notices shall be given five days before the summons or the plaint is returnable. Where such notice is given by the post, as it may be, it shall be posted in such time as that by the ordinary course of the post it could reach its destination five days before such summons is returnable.

ASSESSORS DISAGREEING.

18. Where a majority of the assessors upon the trial of any issue shall not agree upon the verdict within six hours after the case is left to them, they may be discharged from giving any verdict, and another day shall thereupon be appointed for such trial, and in that case each party shall abide his own costs of the abortive trial, and the party (if any) who shall have required such issue, shall again pay the fee for assessors; but nothing in this rule shall prevent such party from waiving his right to such issue.

19. Whenever the assessors shall have been discharged under the preceding rule, and the issue shall be left to the determination of the judge alone, he shall decide such issue without any further evidence thereon, unless he shall think fit to require the same.

DISCONTINUANCE.

20. The plaintiff may at any time serve notice in writing of discontinuing his proceedings, and thereupon the defendant may proceed for his costs, or may, in proceedings which might entitle him to relief, issue a summons under which the judge may direct the continuance of the proceedings on such terms as he may think fit.

SUMMONS.

21. Any party may be summoned before the judge to show cause why the application contained or set out in the summons should not be granted.

AFFIDAVITS.

22. Every affidavit intended to be used before a court or before a judge shall be intituled in the cause, be made in the first person, and bear the number of the plaint (if any) and shall, before the same is used, be sealed or stamped by the clerk with the seal of such court.(a)

23. Every affidavit used in court shall be delivered to and filed by the clerk, and every affidavit used before the judge out of court shall be delivered to and retained by the judge to the next court day, or transmitted to the clerk by the first opportunity, when it shall be deposited with and filed by the clerk.

24. The condition and true place of abode of every person making an affidavit shall be inserted therein, and in every affidavit made by two or more deponents, the names of the several persons making such affidavit shall be written in the jurat; and no affidavit shall be read or made use of in court or before the judge in the jurat of which there is any interlineation or erasure, or in the body

(a) Where the affidavit of service of a plaint summons was not sealed with the seal of the court (under rule 22), and contained interlineations and erasures not initialed (under rule 24), these are good grounds for dismissing the plaint and appearance to take the objections is no waiver of them.—*Mitten* v. *Spargo*, 1 V.R. (M.), 22.

of which there is any interlineation or erasure not initialed in the margin by the person taking it.[a]

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25. When any affidavit is sworn by any person who, from his or her signature, appears to be illiterate, the person taking such affidavit shall certify or state in the jurat that the affidavit was read in his presence to the party making the same, and that such party seemed perfectly to understand the same, and also that the said party wrote his or her mark or signature in the presence of the person taking such affidavit.

26. When objection is made to any act done by a judge upon affidavit in regard to non-compliance with any of the last four rules, it shall be at his discretion to determine whether the act should be avoided.

EXECUTION AFTER YEAR.

27. No execution shall be issued under any decree or order after the expiration of one year from its date, or the time, if any, of the act directed to be done, except upon a judge's summons to show cause or special order.

REGISTER.

28. The register to be kept by the clerks of courts of mines, as directed by the 169th section, shall be in a book with columns, with the following headings :—

1st. Number of plaint.
2nd. Whether prosecuted with written pleadings.
3rd. Names and abode of parties as in plaint.
4th. Day of sealing of summons.
5th. Nature of relief sought generally.
6th. Sums claimed.
7th. Dates of pleadings.
8th. Orders and decrees, substance generally.
9th. Dates thereof.
10th. Other determinations of suit generally.
11th. Issues tried generally.
12th. Date of trial.
13th. Result of trial.
14th. Process to compel execution, and date.
15th. Result or return.
16th. If special case sent to chief judge, date and result.
17th. If appeal to chief judge, date and result.

FEES TO BARRISTERS AND ATTORNEYS.

29. The fees to be paid to barristers and attorneys practising in the courts of mines, and the expenses to be paid to witnesses in the said courts, shall be those set down in the Schedule hereunto annexed.

30. In calculating the said fees, the amount or value of the demand shall, where the defendant succeeds, regulate the amount, and where the plaintiff succeeds, the amount recovered shall regulate it.

31. Where a barrister shall travel in order to attend any one case away from his residence, he shall be allowed further three

(a) See note (a) to Rule 22.

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guineas a day for every day after the first, and his travelling expenses according to the sums reasonably and actually paid.

JUDGE FIXING COSTS.

32. When the Act or these rules require or allow anything to be done upon payment of costs, or upon terms, whether as to payment of costs or otherwise, as the judge or court shall think fit, the amount of such costs shall be ascertained and fixed by the judge in each particular case, without any other taxation.

ATTORNEY'S ROLL.

33. No attorney shall be allowed to appear for any person in any court of mines until he has signed a roll or book to be kept by the clerk for the purpose.

SURVEYOR'S LIST.

34. The assistance, under section 140, of any surveyor shall not be obtained by any court of mines, unless such surveyor shall have been licensed by the Chief Secretary; and a list of all such licensed surveyors shall be affixed by the clerk of the court in some conspicuous part of the office.

FEES TO SURVEYORS, ETC.

35. The costs and expenses to be allowed to accountants, engineers, surveyors, and other scientific persons, whose assistance shall be obtained by the judge, shall be fixed by him, and shall be paid by the party or parties to the suit temporarily or finally, and in such manner and proportions as he shall direct.

POINTS ON APPEAL.

36. In every suit, appeal, matter, or proceeding before the Court of Mines, or any judge thereof, after the plaintiff, appellant, respondent, or applicant, his attorney or counsel, shall have stated his case or made his application, and before he shall have called any witness, the judge may, if he shall think proper, call upon the defendant, appellant, or respondent, or person called upon to answer, his attorney or counsel, to state the nature of his defence or answer; and neither party shall be permitted to depart from such opening statement, defence, or answer, without leave of the judge; and in no case shall such permission be given so as to enable any person to rely upon a purely technical defence or answer after he has stated a defence or answer upon the merits.(a)

GENERAL PROVISIONS.

37. In any case for which a form is not provided by the said Act, any form which is so provided may, *mutatis mutandis*, be adapted to, and shall be sufficient for, such cause, or any form plainly showing its object.

38. In the construction of these rules, words importing the singular shall include the plural, and *vice versâ*; words importing

(a) Where the defence, as stated by the defendants, was "priority of legal occupation for mining purposes under the by-laws." *Held*, that it was open to the defendants to show a title by possession although not a legal title under the by-laws. — *The Barkers' Gold Mining Company* v. *Keating*, 1 V.R. (M.), 18.

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the masculine shall include the feminine gender, and words applicable to individuals shall include corporations and companies.

39. The time fixed by these rules in days shall be exclusive of the first and inclusive of the last day, unless the last day shall fall on a Sunday or holiday, in which case it shall be exclusive of that also.

ROBT. MOLESWORTH.
C. BRUCE SKINNER.
M. F. MACOBOY.
JOHN GEORGE FORBES.

Supreme Court,
Melbourne, 6th April 1866.

SCHEDULE.

Fees to Barristers and Attorneys.

	Under £50.	Under £100.	Under £200.	Under £500.	Under £1000.	Over £1000.
Trials.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
To attorney for taking instructions, entering plaint, issuing summons, issuing summonses for witnesses	1 0 0	1 10 0	2 0 0	3 0 0	4 0 0	5 0 0
Taking instructions to defend answer or objection	Half the above amounts.					
Preparing brief for counsel, when counsel employed	1 10 0	2 10 0	3 0 0	3 10 0	5 0 0	10 0 0
Attorney attending trial	1 1 0	1 10 0	1 15 0	2 0 0	2 10 0	3 0 0
Every day cause is in list after first day	0 10 0	0 10 0	0 10 0	0 10 0	0 10 0	0 10 0
Counsel's fee, including clerk's fee	2 4 6	3 5 6	5 10 0	7 12 6	11 0 0	In the discretion of the judge, not exceeding a sum proportionate to the last.
Ex parte and Interlocutory Proceedings.						
Instructions or attendance on counsel or judge, including preparation of affidavits	In the discretion of the judge, not exceeding the above.					
Counsel's fee						

Costs of Witnesses.

	If resident at place of trial or in the neighborhood.	If resident at any other place.
	£ s. d.	£ s. d.
Labourers and other common witnesses	0 5 0 ..	0 5 0 to 0 7 6
Master tradesmen, farmers, and miners, per diem ..	0 7 6 to 0 10 0	0 10 0 to 0 15 0
Auctioneers and accountants	0 10 6 to 1 1 0	0 10 6 to 1 1 0
Professional men, per diem	1 1 0 ..	.. ..
Ditto, exclusive of all except travelling expenses, per diem	.. ..	2 2 0 to 3 3 0
Mechanics and clerks, per diem	0 7 6 to 0 10 6	0 15 0 to 1 10 0
Engineers and surveyors, per diem	1 1 0 ..	1 0 0 to 3 3 0
Notaries, per diem	1 1 0 ..	1 0 0 to 1 10 0
Gentlemen	1 1 0 ..	
Esquires	(with subpœna but no daily allowance except after the first day, and then a reasonable sum for refreshment and conveyance, say 5s.)	1 1 0 per diem.
Bankers		
Merchants		
Females (according to station in life), per diem ..	0 5 0 to 0 10 0	0 5 0 to 1 0 0
Police inspector, per diem / Police constable, per diem	A sum equal to their pay.	
Travelling expenses, according to the sums reasonably and actually paid.		
Witness attending in more than one cause will be entitled to a proportionate part only in each cause.		

FEES IN COURTS OF MINES.

At the Executive Council Chamber, Melbourne, the fifteenth day of September 1869.

PRESENT:

His Excellency the Governor
Mr. Paton Smith | Mr. Casey.

Order. 15 Sept. 1869.

WHEREAS by the "*Mining Statute* 1865" it is amongst other things enacted that it shall be lawful for the Governor in Council to direct what fees and sums of money shall be taken in the courts of mines, and from time to time to lessen or increase the same: Now therefore His Excellency the Governor, with the advice of the Executive Council, doth by this present order direct that on and after Tuesday the twenty-first day of September instant the amount of fees mentioned in the Schedule hereunto annexed shall be taken in courts of mines in lieu of the fees now taken therein, and that in calculating the same every fraction of a pound or mile shall be taken as an entire pound or mile.

SCHEDULE.

	£	s.	d.
For payment of assessors under sec. 136	6	12	0
For payment of assessors under sec. 170	6	12	0

THE LAST SCHEDULE.

For summons to answer a plaint, for any sum not exceeding £10 ...	0	1	0
Above £10 and not exceeding £20	0	2	0
Above £20 and not exceeding £50	0	3	0
Above £50 and not exceeding £100	0	6	0
Above £100 and not exceeding £200	0	10	0
Above £200 and not exceeding £300	0	15	0
Above £300 and not exceeding £500	1	0	0
Above £500 and not exceeding £1000	3	0	0
Above £1000	4	0	0
For summons where there is no pecuniary demand	1	0	0
On lodging notice of appeal from a warden	0	10	0
Other summonses, in addition to the bailiff's fees, where bailiff is required to serve	0	2	0
Ditto, ditto, when issued to an official agent	0	0	0
For notice on payment into court, in addition to the bailiff's fee for serving it	0	2	0
On requiring trial by assessors, in addition to the assessors' fees, where the plaint is for any sum not exceeding £50	0	5	0
Above £50 and not exceeding £100	0	10	0
Above £100	1	0	0
Filing answers to plaint (sec. 117)	0	2	0
Lodging engrossment of plaint, &c. (sec. 123)...	0	2	0
Adjournment of hearing on account of error in proceedings, to be paid by party in error	0	10	0
Every rehearing (secs. 127 and 134)	0	10	0
Sealing affidavit for injunction on one only	0	10	0
Sealing every other affidavit	0	1	0
Sealing decree	0	5	0
Order of commitment	0	5	0
Sealing order (secs. 160, 161, and 162)	0	5	0
Sealing every other order	0	1	0

Order.

15 Sept. 1869.

	£	s.	d.
For warrant of execution for every pound of the amount to be levied, in addition to the bailiff's fees	0	0	2
Warrant of commitment, in addition to bailiff's fees	0	5	0
Certificate of decree for another court	0	5	0
Certificate of discharge	0	2	0
Copy minute of proceedings (sec. 169)	0	5	0
Taxation of costs (sec. 229)	0	10	0
Taking bond or security	0	10	0
Every search	0	1	0
Taking copy of map in office	0	5	0
Upon filing petition for winding up limited company	1	0	0
Upon lodging memorial and copies for incorporation of limited company ...	1	0	0
On lodging notice of change of manager or increase of capital or other notice of the like nature	0	1	0

FEES TO BE PAID THROUGH THE CLERK OF THE COURT TO THE BAILIFF UPON THE PERFORMANCE OF THE DUTY, AND WHICH MAY BE RETAINED BY THE BAILIFF FOR HIS OWN USE.

	£	s.	d.
For executing warrant against goods, if the distance from the court house does not exceed five miles	1	0	0
For man left in possession, per day	0	7	0
For certificate (sec. 147)	0	10	0
For an arrest, not exceeding a mile from the court house or bailiff's residence	0	15	0
Not exceeding seven miles from the same place	1	0	0
Exceeding seven miles therefrom	1	10	0
For serving any summons, order, or decree, &c., or any notice of payment into court, within two miles of the court house	0	2	0
For executing every warrant, serving summons or notice, conveying prisoner to gaol, for any distance beyond those before mentioned from the court or bailiff's residence, a reasonable amount, to be fixed by the clerk, not exceeding 2s. per mile.			

And the Honorable James Joseph Casey, Her Majesty's Minister of Justice for Victoria, shall give the necessary directions herein accordingly.

J. H. KAY,
Clerk of the Executive Council.

GENERAL RULES FOR PROCEEDINGS BEFORE WARDENS.

Rules.

4 June 1866.

WHEREAS by the "*Mining Statute* 1865," section 233, it is enacted that it shall be lawful for the Chief Judge of Courts of Mines, and any two or more of the judges of the courts of mines, from time to time, but subject to the said Act, to frame such general rules as to them shall seem expedient for and concerning, and so far as not therein provided, for the pleadings, practice, and proceedings of the courts holden under the said Act, either in their original or appellate jurisdiction, and the practice and proceedings in cases before the wardens, and for the execution of the process of such courts, and issued by such wardens, and in relation to any of the provisions of the said Act which relate to the courts to be holden thereunder, and to proceedings before wardens, as to which there may arise any doubts; and also to frame forms for every matter or proceedings in

Rules. — 4 June 1866.

the said courts or before such wardens, for which they shall think it necessary that a form should be provided and not therein already provided for; and for and concerning the fees to be paid to barristers-at-law, and attorneys practising in the said courts, and before wardens, and the expenses to be paid to witnesses in said courts, and before wardens: Now we, the undersigned, the said chief judge and judges of the courts of mines, in pursuance of the said power, do make and declare the rules following, and declare that the schedules thereunto annexed shall be read in connexion therewith, and as part thereof, and that the same shall commence and come into operation from the tenth day of June next.

VENUE.

1. Every suit before a warden shall be commenced by a summons from a warden in whose district or portion of a district the subject matter of dispute, if land, or an interest in land, lies, or where a sole defendant resides; but if there are several defendants, the suit may proceed before a warden in whose district or portion of a district any of the defendants reside, with power, however, in the latter case, for the warden to stay the proceedings, with or without costs, in order that proceedings may be taken before a warden more convenient regarding the residence of the defendants and witnesses, or to direct that any suit or proceeding may be heard, transferred, or adjourned to some other place or before some other warden having jurisdiction.

SUMMONSES.

2. Summonses shall describe the addresses of plaintiffs with such distinctness as will enable the wardens and defendants to serve notices upon the plaintiffs without difficulty.

SERVICE OF SUMMONS.

3. Summonses may generally be served under the 180th section of the Act, personally or at the dwelling of the defendant, upon any inmate of years of discretion, or at the place of business of the defendant upon his servant or agent there employed, four days before the day of appearance, or such other time as the warden shall direct, and which shall be noted at the foot of the summons.

4. An affidavit of service by the person making the same must be indorsed upon, or written under, a copy of the summons served, describing how the same has been served, and no cause shall be heard without such affidavit, unless service be admitted.

5. If any dispute shall arise, or the warden shall entertain any doubt as to the due service of any summons, the warden shall be at liberty to examine witnesses, and to decide whether such service has been good or otherwise, and either to proceed to hear or defer the hearing as he shall think fit; or under special circumstances, appearing by affidavit, to order that a person not served or insufficiently served shall be deemed a defendant under such terms as he shall think fit, entering in his register the names of the persons served as above, and the names and manner of service of persons whom he shall order to be deemed defendants.

PARTICULARS OF DEMAND.

6. If a defendant shall require further particulars of the demand or of the relief sought he may apply to the warden for an order for further particulars, and the warden shall thereon make such order as he shall see fit.

PAYMENT IN AND OUT OF COURT.

7. A plaintiff issuing a summons shall, in regard to the 182nd section, if required by the warden, leave with him a memorandum of the costs which he expects will be payable to him, from time to time, up to the hearing of the cause, in case the defendant pays money to the warden under that or the 183rd section; and the warden receiving money shall, in measuring the costs payable, have regard to the said memorandum, and may afterwards direct either party to proceed before him, by summons, for the ascertainment of the costs properly payable, and direct the payment of additional costs, or the refunding of costs paid in excess, and may make an order as to the payment of costs by parties on such summons, and in awarding the last mentioned costs have regard to the contents of the above memorandum.

8. Payment to the warden under the 183rd section shall in no case be used in evidence at the hearing as an admission of the cause of complaint.

9. A defendant after payment of money to the warden under the 183rd section, may cause notice thereof to be given to the plaintiff in person, or at his usual or last known place of abode or business.

10. A plaintiff drawing money from the warden, paid in under the 183rd section, shall be required, before receiving the same, to leave with the warden a memorandum signed by himself or his attorney, stating whether he does or does not elect to proceed.

11. A plaintiff not leaving such memorandum with the warden within three days after he has received notice of payment, either from the defendant or the warden, and afterwards electing not to proceed, shall be liable for all costs properly incurred by the defendant preparing for his defence after such payment to the warden.

COSTS OF INSPECTION.

12. In case of any inspection or survey under sections 191 or 192, if the owner or person in the possession or control of the engines or other machinery ordinarily employed for the purpose of descending any shaft or mine shall not supply or afford the assistance of the engineers, laborers, or other persons required for working the same; the warden may, if he shall think fit, employ any fit persons for that purpose, and may allow such sum as he shall think fit for their labor and expenses, and for the costs of fuel or other necessaries for working the same; and may require such sum to be paid, in the first instance, by the party applying for such inspection or survey, and may afterwards include the same in the costs of inspection recoverable.

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4 June 1866.

PLACE OF HEARING.

13. Wardens shall generally, and as far as practicable, hear evidence and arguments, and pronounce their decisions in some court house or office, and not at the place where the subject matter of dispute is; but, at their discretion, may themselves and before assessors, if any, receive the evidence of witnesses, and may give their decisions as to boundaries, &c., at that place.

DISCONTINUANCE.

14. The plaintiff may at any time serve notice in writing of discontinuing his proceedings, and thereupon the defendant may proceed for his costs.

SERVICE ON ATTORNEYS.

15. When parties in any cause have appeared by attorney, whose authority is unrevoked, all notices and summonses by the rules hereinbefore contained, authorized, or directed to be served in such cause, shall be served by or upon the attorneys respectively, instead of the parties.

AFFIDAVITS.

16. Every affidavit intended to be used before a warden shall be intituled in the cause, and be made in the first person.

17. Every affidavit used before a warden shall be delivered to and retained by him, and preserved in such order that it may afterwards, if necessary, be referred to.

18. The condition and true place of abode of every person making an affidavit shall be inserted therein, and in every affidavit made by two or more deponents, the names of the several persons making such affidavit shall be written in the jurat; and no affidavit shall be read or made use of before a warden in the jurat of which there is any interlineation or erasure, or in the body of which there is any interlineation or erasure not initialed in the margin by the person taking it.

19. When any affidavit is sworn by any person who from his or her signature appears to be illiterate, the person taking such affidavit shall certify or state in the jurat that the affidavit was read in his presence to the party making the same, and that such party seemed perfectly to understand the same, and also the said party wrote his or her mark or signature in the presence of the person taking such affidavit.

20. When objection is made to any act done by a warden upon affidavit in regard to non-compliance with any of the last four rules, it shall be at his discretion to determine whether the act should be avoided.

EXECUTION AFTER YEAR.

21. No execution shall be issued under any decree or order after the expiration of one year from its date or the time if any of the act directed to be done, except upon a warden's summons to show cause or special order.

Rules.

4 June 1866.

Fees to Barristers and Attorneys.

22. The fees to be paid to barristers and attorneys practising in wardens' courts, and the expenses to be paid to witnesses in the said courts, shall be those set down in the First and Second Schedules hereunto annexed; but no barrister's fee is to be allowed against the opposite party where the amount or value of the demand is under twenty pounds, unless under special circumstances.

23. In calculating the said fees, the amount or value of the demand shall, where the defendant succeeds, regulate the amount, and where the plaintiff succeeds, the amount recovered shall regulate it.

Amended by General Rule, 30th Dec. 1868, *post*, p. 2971.

24. Where a barrister shall travel in order to attend any one case away from his residence, he shall be allowed further three guineas a day for every day after the first, and his travelling expenses according to the sums reasonably and actually paid, if the warden shall consider the case of such importance as to warrant his employment.

Fees to Surveyors, etc.

25. The costs and expenses to be allowed to accountants, engineers, surveyors, and other scientific persons, whose assistance shall be obtained by the warden, shall be fixed by him, and shall be paid by the party or parties to the suit temporarily or finally, and in such manner and proportions as he shall direct.

Corporations, etc.

26. These rules and forms shall be applicable to suits and proceedings to which corporations or incorporated or registered companies are parties, their offices being substituted for the residences or dwellings of individual parties, and acts done by or to their managing officers being substituted for acts done by or to individual parties.

Forms.

27. The forms in the Third Schedule hereto annexed shall generally be used for their respective purposes, in addition to those provided by the said Statute; and in case no form is provided, the above may, *mutatis mutandis*, be adapted to such case, or any form plainly showing its object may be used; and the warden shall be at liberty to amend all mistakes in forms on such terms, as to postponement or payment of costs, as he may think fit.

Warden's Register.

28. Every warden shall, before or at the end of every year, subscribe his name at the end of the register kept by him, under the 181st section, and specify the number of pages it contains; and every warden appointed in the place of another shall receive the registers kept by his predecessors, and shall enter a memorandum thereof therein respectively, and also shall give his predecessor a receipt for the same, specifying them by date, name of warden, and number of pages.

General Provisions.

29. In the construction of these rules, and their direction as to forms, words importing the singular shall include the plural, and

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vice versâ; words importing the masculine shall include the feminine gender, and words applicable to individuals shall include corporations and companies.

30. The time fixed by these rules in days shall be exclusive of the first and inclusive of the last day, unless the last day shall fall on a Sunday or holiday, in which case it shall be exclusive of that also.

SCHEDULE I.

Fees to Barristers and Attorneys.

Amended by General Rule, 30th Dec. 1868, *post*, p. 2971.

	Money or Value of Property claimed.					
	Under £50.	Under £100.	Under £200.	Under £500.	Under £1000.	Over £1000.
Trials.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
To attorney for taking instructions, issuing summons, issuing summonses for witnesses	1 0 0	1 10 0	2 0 0	3 0 0	4 0 0	5 0 0
Taking instructions to defend ..	Half the above amounts.					
Preparing brief for counsel, when counsel employed	1 10 0	2 10 0	3 0 0	3 10 0	5 0 0	10 0 0
Attorney attending trial	1 1 0	1 10 0	1 15 0	2 0 0	2 10 0	3 0 0
Every day after first day	0 10 0	0 10 0	0 10 0	0 10 0	0 10 0	0 10 0
Counsel's fee, including clerk's fee..	2 4 6	3 5 6	5 10 0	7 12 6	11 0 0	In the discretion of the judge, not exceeding a sum proportionate to the last.
Ex parte and Interlocutory Proceedings, Applications for Rehearings, &c.						
Instructions or attendance on counsel or warden, including preparation of affidavits	In the discretion of the warden, not exceeding the above					
Counsel's fee						

SCHEDULE II.

Cost of Witnesses by the Day.

	If resident at place of trial, or within five miles.	If resident at any other place.
	£ s. d.	£ s. d.
Laborers and other common witnesses	0 5 0	0 5 0 to 0 7 6
Master tradesmen, farmers, and miners..	0 7 6 to 0 10 0	0 10 0 to 0 15 0
Auctioneers and accountants	0 10 6 to 1 1 0	0 10 6 to 1 1 0
Professional men	1 1 0 ..	.. ..
Mechanics and clerks	0 7 6 to 0 10 6	0 15 0 to 1 10 0
Engineers and surveyors	1 1 0 ..	1 0 0 to 3 3 0
Notaries	1 1 0 ..	1 0 0 to 1 10 0
Esquires	.. ..	1 1 0 per diem.
Bankers		
Merchants		
Females (according to station in life)	0 5 0 to 0 10 0	0 5 0 to 1 0 0
Police inspector } A sum equal to their pay. Police constable }		
Travelling expenses, according to the sums reasonably and actually paid.		
Witness attending in more than one cause will be entitled to a proportionate part only in each cause.		

SCHEDULE III.

Rules.

4 June 1866.

FORMS.

(1.) *Affidavit of Personal Service.*

A.B. [and others]
against
C.D. [and others] } Before a warden of the goldfields.

I [*name deponent in full*] of [*true place of abode*] [*condition*] make oath and say that on the day of I served the defendant [*name*] with the summons in this suit a true copy of which is at the opposite side hereof [*or* as above written] by delivering to him at personally another true copy thereof.

(2.) *Affidavit of Service on Inmate Residence.*

A.B. [and others]
against
C.D. [and others]

I [*name deponent in full*] of [*true place of abode*] [*condition*] make oath and say that on the day of I served the defendant [*name*] with the summons in this suit a true copy of which is at the opposite side hereof [*or* is above written] by delivering to a person named [*or* whose name is unknown to me] whom I believe to be an inmate of the said defendant's residence as the [*landlord, wife of defendant, servant of defendant, &c.*] and of years of discretion at the said residence and another true copy thereof requesting him to deliver the same to the said defendant that day which I believe he did.

(3.) *Affidavit Service on Servant at Place of Business.*

A.B. [and others]
against
C.D. [and others]

I [*name deponent in full*] of [*true place of abode*] [*condition*] make oath and say that on the day of I served the defendant [*name*] with the summons in this suit a true copy of which is at the opposite side hereof [*or* is above written] by delivering to a person named [*or* whose name is unknown to me] whom I believe to be a servant [*or* agent] of the said defendant employed at his place of business at and then being there another true copy thereof requesting him to deliver the same to the said defendant that day which I believe he did.

(4.) *Affidavit of Ineffectual effort to Serve.*

I of make oath and say that I was employed by [*name*] to serve the defendant with the summons in this suit a true copy of which is at the opposite side hereof [*or* as above written] and have really and honestly endeavored to serve the same and for that purpose [*state as to acts*] and did on at deliver to being [*state relation to defendant*] another true copy thereof requesting him to deliver the same to the said defendant that day which I believe he did [so far as facts support].

(5.) *Affidavit to substitute Service.*

I of make oath and say that I wished to cause the defendant to be served with a summons in this suit but was unable to do so in consequence of I believe that the means of conveying notice of the summons in this suit to the said defendant at a reasonable expense most likely to be effectual would be by I believe that such means would probably be effectual [*or* ineffectual].

(6.) *Affidavit that some defendants will sufficiently represent the interests of others* [or *other persons*].

I of make oath and say that this suit is brought to that the defendants and [*or* person named] [*or* persons claiming to be entitled to the property in question] stand in a similar interest and position as to resisting the claim of the plaintiff and that they are so interested as far as I know in the following proportions and I believe that the said can and will as effectually defend this suit

Rules.

4 June 1866.

as the said [*or* persons claiming to be entitled to the property in question] could have done and I believe that the reason for not serving the said [*or* persons claiming to be entitled to the property in question] with a summons in this suit is that and that there is no collusion between the plaintiff and the said [*persons served*] to prejudice the interests of the said [*or* persons claiming to be entitled to the property in question].

(7.) *Notice of payment to a warden by defendant, section* 182.

A.B. [and others]
against
C.D. [and others]

The defendant on the day of has paid to the sum of £ being that demanded by your summons and the sum of £ as for costs up to that date [*add if necessary* subject to question as to latter amount].

Dated

(8.) *Notice of payment to a warden by defendant, section* 183.

A.B. [and others]
against
C.D. [and others]

The defendant on the day of paid to the sum of £ as a full satisfaction for your demand and the sum of £ as for costs up to that date [*add if necessary* subject to question as to latter amount] which sum of money you may receive upon application at the office of the said leaving with him a memorandum signed by yourself or your attorney stating whether you elect to proceed or not your omitting to do so within three days of service of this may subject you to costs of the defendant preparing his defence.

Dated

(9.) *Memorandum of Election.*

A.B. [and others]
against
C.D. [and others]

The defendant having paid to the sum of £ on the day of I elect to [*or* not to] proceed in my suit.

Dated this

(10.) *Memorandum of requiring trial by assessors.*

A.B. [and others]
against
C.D. [and others]

I the in this suit require that it may be heard before the warden and assessors.

Dated

(11.) *Subpœna to witness.*

A.B. [and others]
against
C.D. [and others]
Before a warden of the goldfields.

You are [severally] required to appear personally at the Warden's Court at on the day of at the hour of and afterwards until the said suit is heard to give evidence in behalf of [*add if necessary*] and then and there to produce and all other books papers writings and documents relating to the said suit which may be in your custody possession or power.

Given under my hand this

Warden.

NOTE.—By the 241st clause of the "*Mining Statute* 1865" any person on whom any summons issued by any warden requiring such person to appear as a witness before him shall have been served and to whom at the same time payment or tender of his expenses shall have been made on the scale theretofore mentioned and who shall refuse or neglect without sufficient cause to appear according to the tenor of such summons or who having so appeared shall refuse to be sworn or answer any lawful question shall on conviction thereof before any two justices forfeit and pay any sum not exceeding Ten pounds but no such conviction shall exempt such person from any action for disobeying such summons.

(12.) *Interpleader Summons.*

Rules.

4 June 1866.

To A.B. [*The person issuing process.*]
C.D. [*The person claiming goods.*]
Whereas certain goods and chattels namely were taken in execution under a process issued by me as warden in a suit depending before me wherein [and others] was plaintiff and [and others] was defendant on behalf of you against and being the officer charged with the execution of such process took the above goods and chattels as the property of the said and you claim the said goods and chattels: Now I upon the application of the said [*officer*] do hereby summon you to appear before me on at in order that I may adjudicate upon the said claim of you and make such order between you as to me shall seem fit under the 232nd section of the "*Mining Statute* 1865."
Dated

Warden.

(13.) *Notice of Discontinuance.*

A.B. [and others] *against* C.D. [and others.] } Before a warden of the goldfields.

The plaintiff has discontinued his proceedings in this suit under the summons of Esq., warden dated against the defendant and hereby entitles the said defendant [respectively] to proceed for his costs if any.
Dated this

(14.) *Summons for Execution after a year.*

Plaintiff [and others] *against* C.D. [and others.] } Before a warden of the goldfields.

Whereas by a decree [*or* order] of warden it was [amongst other things] decreed [*or* ordered] that
And whereas it has been represented to me by that the said decree [*or* order] has not been complied with as to
Now I do hereby require you to appear before me or some other warden of the goldfields on the day of at o'clock at to show cause if any you can why the said decree [*or* order] should not now be carried into execution as to the matter aforesaid.

Warden.

ROBT. MOLESWORTH.
JOHN GEORGE FORBES.
C. BRUCE SKINNER.
M. F. MACOBOY.
J. W. ROGERS.
CHAS. B. BREWER.

4th June 1866.

GENERAL RULE FOR PROCEEDINGS BEFORE WARDENS.

Rules.

30 Dec. 1868.

WHEREAS by the Mining Statute of 1865, section 233, it is enacted that it shall be lawful for the Chief Judge of Courts of Mines, and any two or more of the judges of the courts of mines from time to time, but subject to the said Act, to frame such general rules as to them shall seem expedient for and concerning and so far as not therein provided for the pleadings, practice, and proceedings of the courts holden under the said Act, either in their original or appellate jurisdiction, and the practice and proceedings in cases before wardens, and for and concerning the fees to be paid to barristers-at-

Rules. — 30 Dec. 1868.

law and attorneys practising in the said courts and before wardens, and the expenses to be paid to witnesses in the said courts and before wardens: Now we, the undersigned, the said chief judge and judges of the courts of mines, in pursuance of the said powers, do make and declare the rule following, and declare the same shall commence and come into operation from the first day of February next.

As an amendment to the General Rules, 22, 23, and 24, published in 1866, and Schedule One therein referred to.

In all suits commenced after the first day of February 1869, where a plaintiff shall recover a demand of less value than £20, the fees to be paid to his barrister and attorney shall be at the discretion of the warden, but not to exceed those allowed by the said rules and schedule.

Dated this 30th day of December 1868.

ROBT. MOLESWORTH.
J. G. FORBES.
J. LANGTON CLARKE.
C. BRUCE G. SKINNER.

GENERAL RULE FOR PROCEEDINGS BEFORE WARDENS.

Rules. — 27 Dec. 1869.

WHEREAS by the Mining Statute of 1865, section 233, it is enacted that it shall be lawful for the Chief Judge of Courts of Mines and any two or more of the judges of the courts of mines, from time to time, but subject to the same Act, to frame such general rules as to them shall seem expedient for and concerning and so far as not therein provided for the practice and proceedings in cases before the wardens: Now we, the undersigned, the said chief judge and judges of the courts of mines, in pursuance of the said power, do make and declare the rule following and that the same shall commence and come into operation on the first day of February next:—

In every proceeding before a warden, after the complainant or applicant, his attorney or counsel, shall have stated his case or made his application, and before he shall have called any witness, the warden may, if he shall think proper, call upon the defendant or person called upon to answer, his attorney or counsel, forthwith or after adjournment, to state the nature of his defence or answer, and neither party shall be permitted to depart from such opening statement, defence, or answer without leave of the warden. But this restriction shall not be continued upon an appeal from the decision of the said warden.

Dated this 27th day of December in the year of our Lord One thousand eight hundred and sixty-nine.

ROBT. MOLESWORTH.
C. BRUCE SKINNER.
M. F. MACOBOY.

MISCELLANEOUS

RULES AND REGULATIONS

MADE UNDER

VARIOUS STATUTES,

ETC.

MISCELLANEOUS RULES AND REGULATIONS.

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ORDER IN COUNCIL.

At the Government House, Melbourne, the twelfth day of February 1857.

PRESENT :

His Excellency the Governor
Major-General Macarthur

Mr. Haines	Mr. Childers
Mr. Sladen	Mr. Fellows.

Order.

12 Feb. 1857.

WHEREAS by the law now in force not more than four thousand pounds shall be payable at the same time to the judges of the Supreme Court out of the sums set apart for such pensions, and all such pensions shall be granted in accordance with regulations to be framed by the Governor and Executive Council, so that the same shall, as far as may be, accord with the Act of the Imperial Parliament regulating the pensions of the judges of the United Kingdom : Now therefore His Excellency the Governor, by and with the advice of the Executive Council, doth by this present order frame the following regulations for the purpose aforesaid, that is to say :—

It shall and may be lawful for Her Majesty, her heirs and successors, by any letters patent under the public seal of the colony, to give and grant to any person who may or shall have executed the office of Chief Justice of the Supreme Court, or of puisne judge thereof, and shall have resigned the same, an annuity or pension not exceeding one-half part of the salary appertaining to each such

Order. — 12 Feb. 1857.

office at the period of the resignation thereof, the said several annuities or pensions to commence from and after the period when the person to whom such annuity or pension shall be granted as aforesaid shall have resigned his said office, and to continue from thenceforth for and during the natural life of the person to whom the same shall be granted as aforesaid; and the same shall from time to time be paid and payable quarterly, free and clear of all taxes and deductions whatsoever, on the first day of January, the first day of April, the first day of July, and the first day of October, in each and every year, by even and equal portions, the first payment thereof to be made on such of the said days as shall next happen after such resignation as aforesaid of the person to whom any such annuity or pension shall be granted: Provided always that no such annuity or pension granted to any person having executed the office of chief justice or puisne judge of the said court shall be valid unless such person shall have continued in one or more of the said offices for the period of fifteen years, or shall be afflicted with some permanent infirmity disabling him from the due execution of his office, which shall be distinctly recited in the said grant.

And the Honorable Charles Sladen, Her Majesty's Treasurer for Victoria, shall give the necessary directions herein accordingly.

J. H. KAY.

RULES FOR THE CONTROL AND MANAGEMENT OF DEBTORS CONFINED IN GAOLS.

Rules. — 9 Feb. 1865.

In pursuance of the provisions of an Act of the Parliament of the colony of Victoria, passed in the twenty-seventh year of Her Majesty Queen Victoria, No. 219, intituled "*An Act to consolidate the laws relating to Gaols*," the following rules for the control and management of debtors confined in Her Majesty's gaols, in the colony of Victoria, have been made by the judges of the Supreme Court of the said colony.

1. Debtors will be required to rise on the gaol bell ringing in the morning, and to have their bedding neatly folded up, and be in readiness to leave their dormitories for the day-room or airing-yard within half an hour of that time. From 1st October to 31st March the bell will ring at 5.40 a.m.; from 1st to 30th April at 6.10 a.m.; from 1st May to 31st August at 6.40 a.m.; and from 1st to 30th September at 6.10 a.m.

2. Visitors will be permitted to see debtors in their day-room or in the airing-yard from 10 a.m. until 4 p.m., and not at any other time without a special order from the sheriff, except on Sundays, Good Friday, and Christmas Day, when they will only be admitted from 2 to 4 p.m. Visitors may be searched if governor of gaol, or other officer acting in his absence, consider it necessary; and any person refusing to submit will not be permitted to visit.

Rules.
—
9 Feb. 1865.

3. Not more than a limited number of friends, say two or three, will be allowed to visit debtors on the same day; but if more than three should desire to do so they must get an order from the sheriff, or the governor of the gaol, and such order will be issued only on some special and good reason being shown.

4. Debtors and their visitors will at all times be required to conduct themselves in a quiet, orderly, and respectful manner towards the officers of the prison, and to each other; and any breach of this rule will subject the offender, if a visitor, to be denied admission on any future occasion; and if a debtor, he may be brought before the visiting justice, who may, on conviction, deprive the offending debtor of the privilege of seeing his friends, or of supplying himself with provisions for such time as said visiting justice may think proper; and for any more serious offence against the discipline of the gaol, or for any disturbance or insubordination, or for any misconduct or assault either against an officer or fellow debtor or other person, or for any wanton injury to the gaol or to any part of the furniture or other government property therein, the said visiting justice shall have power to deprive any debtor guilty of any such offence of all the privileges, with regard to visitors and supply of food, as he would otherwise be entitled to under these regulations, and may order the offender to be removed from the debtors' prison and confined in a solitary cell on bread and water for any period not exceeding thirty days.

5. Debtors shall be allowed the privilege of having their own food supplied to them, provided it is brought to the gaol in a cooked state; but no cooking will be allowed in their wards or rooms, and the privilege will be subject to such restrictions as the sheriff or governor of the gaol may think fit to impose, to prevent the introduction of any forbidden articles, or the excessive supply of such refreshments as are permitted by the forty-fourth clause of the General Rules for Gaols. Debtors receiving the gaol rations will not be allowed to purchase or receive any additional refreshment, but must confine themselves solely to the rations supplied by the Government.

6. The wearing apparel of any debtor shall, on admission to the gaol, be fumigated and purified, if the governor of the gaol considers it necessary, and afterwards returned to him.

7. Debtors will be locked up for the night at the undermentioned hours throughout the year, viz.:—From 1st May to 31st August at 5 p.m. From 1st to 30th September at half-past 5 p.m.; and from 1st October to 31st March at 6 p.m.

8. The government light will be kept burning until 9 p.m., after which no other light will be allowed.

Dated the 9th day of February A.D. 1865.

WILLIAM F. STAWELL, C.J.
REDMOND BARRY.
EDWARD EYRE WILLIAMS.
ROBT. MOLESWORTH.

ACCOUNTS AND FEES IN THE OFFICE OF TITLES.

Regulations.
—
26 July 1866.

His Excellency the Officer administering the Government, with the advice of the Executive Council, has approved of the subjoined Regulations under Act 22 Vict. No. 86, section 2, relating to accounts and the collection of fees in the Office of Titles, viz. :—

1. The Registrar of Titles is hereby appointed collector of imposts ; and it will be his duty in such capacity to collect, at the Office of Titles, all sums of money receivable under the provisions of the Transfer of Land Statute on account of the consolidated revenue, as well as all contributions to the assurance fund, and in both cases to pay the same to the receiver of revenue at Melbourne, who, for the purposes of the Statute, shall act for and on behalf of the Treasurer of Victoria.

2. In the collection of such monies the registrar will be assisted by a fee clerk, and no other officer of the department is on any pretence to collect any monies for the department ; and, generally, no officer of the department is to transact business with the office as agent for another person (save as mentioned in Regulation 13(a)).

3. The books of account to be kept are receipt books, a fee book, and a cash book.

4. The registrar is not to receive fees from the public in the office, but the fee clerk is in the first instance to receive all fees paid at the office, and is to issue fee tickets from the receipt books ; he is also to keep the fee book, which he is to make up daily from the counterparts, and to balance his cash daily in time for the bank.

5. The registrar is to keep the cash book.

6. Where, as in the case of applications to bring land under the Act, the fees have first to be estimated before being received by the fee clerk, the duty is to be performed by the registrar, who is to state on a printed slip the fees to be paid, and it will be the fee clerk's duty to collect the fees so estimated.

7. The business for which fees are paid is to be transacted by the assistant registrar or registrars, by the clerk in charge of the registration of Crown grants, or other officer not allowed to receive fees. It will be the express duty of such officers to require the fee-tickets before transacting the business, to see that the fee-tickets represent the proper fees (reporting immediately to the registrar if any error has occurred), and to sort the fee-tickets at 2.30 p.m., compare them with the fee clerk's counterparts, and hand them to the registrar.

8. On the same day, in time for the bank, the registrar is to compare the fee-tickets with the fee book, as made up by the fee clerk, and to check the additions of the fee book, setting down the amount of the day's collections for fees and for the assurance fund respectively in one sum in the cash book. The fee tickets are then to be returned to the various branches of the office as vouchers for the work done.

9. The fee clerk is to pay the amount of the day's collections so checked into the bank on the same day, and immediately afterwards

(a) This regulation is repealed, *vide infra*.

Regulations. — 26 July 1866.

to produce to the registrar a bank slip marked, which the registrar is to retain. The banking account is to be in the name of the registrar, as collector of imposts.

10. In the absence, through illness or on leave, of the registrar or fee clerk, the duty of the former is to be performed by an assistant registrar, and of the latter by some officer other than the registrar or assistant registrar.

11. The registrar is to make arrangements so that all public letters received at the office containing money be opened by himself; and it will be his duty to pay monies so received forthwith to the fee clerk, obtaining the usual fee-ticket, and presenting it to that branch of the office where the business has to be transacted for which the fees are remitted.

12. Should remittances be received by any other officer of the department in payment of fees, &c., the same are to be forthwith handed to the registrar, and to be dealt with by him in the same manner as if the fees had been received in a public letter. In such cases, however, a printed circular should be used, acknowledging the fees, &c., and acquainting the remitter, for future guidance, that such monies should be forwarded to the registrar only.

13. [*Repealed by Regulation, 12th June* 1871, post 2982.]

J. McCULLOCH,
Acting Treasurer.

Treasury,
Melbourne, 26th July 1866.

REGULATION UNDER THE "TRANSFER OF LAND STATUTE."

Regulation. — 24 Sept. 1866.

THE Governor in Council has, in accordance with the provisions contained in the 127th section of the "*Transfer of Land Statute*," consented to the regulation hereinafter set forth respecting the parcels of land that may be included in one certificate of title.

GEO. HIGINBOTHAM,
Attorney-General.

Crown Law Offices,
Melbourne, 24th September 1866.

By virtue and in pursuance of the "*Transfer of Land Statute*," I, John Carter, Esquire, the Commissioner of Titles, with the consent of the Governor in Council, do hereby make the regulation hereinafter set forth respecting the parcels of land that may be included in one certificate of title:—

REGULATION.

The parcels of land to be in the same parish, and not to comprise more than one Crown section, block, or portion, or one section, block, or portion of a private subdivision. Contiguous country lands not exceeding altogether one thousand nine hundred and twenty acres, whether in the same parish or not, and whether comprising more than one Crown section, block or portion, or not, may, however, be included in the same certificate. A road not to be considered a break in the contiguity.

JOHN CARTER,
Commissioner of Titles.

FEES UNDER "THE LUNACY STATUTE."

Order.

14 March 1870.

THE Governor, with the advice of the Executive Council, has fixed the fees included in the annexed Schedule as the fees to be charged and paid in all or any proceedings in Lunacy, in pursuance of the provisions of *The Lunacy Statute* (31 Vict. No. 309 § 183), viz.:—

MASTER IN LUNACY'S OFFICE.

	£	s.	d.
Affixing seal of court to any commission or document	1	0	0
Filing every petition	0	5	0
Filing every affidavit or other document	0	1	0
Search in proceedings pending	0	1	0
Search in proceedings concluded	0	2	6
Inspection of proceedings or taking extracts, per hour	0	3	4
Copies—office or other, per folio of 90 words	0	0	6
Setting down petition or matter for hearing	0	10	0
Setting down motion or other application	0	5	0
Signing and sealing every subpœna	0	7	6
Signing every summons	0	5	0
Signing and sealing any other writ	0	10	0
For every order of court	0	10	0
Entering same, per folio 90 words	0	0	6
Every order of detention	0	10	0
Every master's report	1	0	0
Entering same, per folio	0	0	6
Master's certificate (other than a certificate respecting income and percentage)	0	10	0
Signing every grant	1	0	0
Settling bond or recognizance	0	10	0
Attesting every obligor or cognizor	0	5	0
Settling conditions of sale	1	1	0
Signing every advertisement	0	5	0
On depositing will or document purporting to be one	0	5	0
Delivering same out	0	5	0
Signing precept to sheriff	0	5	0
Settling deed or lease, per folio of 72 words	0	1	0
Signing allowance of same	0	5	0
Passing accounts of committee or receiver	0	5	0
Taxing costs, 2½ per cent. on amount allowed.			
Certificate of taxation	0	10	0
Every warrant or appointment	0	3	0

For any other proceeding not herein specifically provided for the same fees are to be charged as for the like or analogous business in equity.

MASTER SITTING AS COMMISSIONER.

For first meeting	5	5	0
Each adjourned meeting	3	3	0

JUDGE'S CHAMBERS.

Filing every affidavit or other document	0	1	0
Signing every summons	0	3	0
Every order thereon	0	5	0
Other orders or warrants	0	5	0

SHERIFF'S OFFICE.

The fees and charges to be the same as at common law.

PROTHONOTARY'S OFFICE.

The same fees are to be charged for the like or analogous proceedings in an action at law.

M. A. McDONNELL,
Attorney-General.

Crown Law Offices,
Melbourne, 14th March 1870.

RULES UNDER "THE DUTIES ON THE ESTATES OF DECEASED PERSONS STATUTE 1870."

Rules.
2 Feb. 1871.

PURSUANT to the provisions of section 5 of the Act of Parliament numbered CCCLXXXVIII.[a] the Governor, by and with the advice of the Executive Council, frames the following rules:—

1. Every administrator, and every executor, and every administrator with the will annexed, and every administrator of freehold lands shall, within two months of the granting to him of letters of administration or probate, or letters of administration with will annexed, or rule to administer, as the case may be, file the statement mentioned in the seventh section of the Statute.

2. The duty payable by the heir-at-law may, if necessary, be assessed by the master on such evidence in that behalf as he may think proper, and after such notice (if any) to such heir as he may deem expedient.

3. Every heir-at-law in the case mentioned in sub-section four of section seven of the Statute shall, within three calendar months from the expiration of the period mentioned in such sub-section, file the statement therein required.

4. If the duty payable under the Statute be not paid within twelve months from the death of the testator or intestate, the master may (after giving notice as hereinafter mentioned) apply for the order mentioned in section nine of the said Statute.

Before making any such application the master shall cause to be served upon the person who ought to pay such duty a notice requiring payment of the duty within the time limited by such notice, and stating that otherwise an application will be made under section nine of the Statute.

5. The statements required by and under the Statute shall contain such particulars as the master may from time to time direct in that behalf; and every such statement shall be verified by the affidavit or statutory declaration of the administrator with or without the will annexed, executor or administrator of freehold lands, or heir-at-law, as the case may be; and if any other person has wholly or partially prepared such statements, then by the affidavit or declaration of such person.

6. Every settlement mentioned in section twenty shall be registered within two months from the death of the settlor.

7. The statements mentioned in section twenty shall contain the same particulars as those mentioned in rule 5, and shall be verified by the same persons and in the same manner as therein specified.

8. The master may assess, on such evidence as he may think necessary in that behalf, the duty payable under section twenty. No application shall be made for a sale under that section, unless upon notice to all persons interested under the settlement, appointing a time within which the duty shall be paid, and stating that, if the same shall not be paid within such time, an application will be made to the court on a day to be specified in such notice.

Crown Law Offices,
Melbourne, 2nd February 1871.

ARCHD. MICHIE,
Attorney-General.

(a) "*Duties on the Estates of Deceased Persons Statute* 1870," *ante*, p. 807.

REGISTRAR-GENERAL'S OFFICE.—REGULATION.

Regulations.
—
12 June 1871.

THE Governor, with the advice of the Executive Council, has approved of the subjoined regulation in regard to the taking of fees, &c., in all the branches of the Registrar-General's Department, viz. :—

The offices of the Registrar-General and Registrar of Titles shall be open to the public for the payment of fees and the filing, registering, and recording of the various documents, and for the purpose of making searches, from the hour of 9.30 in the forenoon till 3 o'clock in the afternoon every day excepting Saturdays, when the offices shall be open for the above purposes till 11.30 in the forenoon.

The 13th of the regulations of 26th July 1866 (page 1567 of that year[a]), is hereby superseded.

ARCHD. MICHIE,
Attorney-General.

Crown Law Offices,
Melbourne, 12th June 1871.

NOTARIES PUBLIC.

Notice.
—
3 August 1871.

WHEREAS an order was made by us on the twenty-third day of February 1859, in the words following, to wit :—"That no further appointments of notaries public for Melbourne be made until it shall be shown that from death or other causes the present number has been diminished, or that by reason of the increase of the colony or other changes further appointments have become necessary :" And whereas applications have lately been made for the appointment of further notaries at Melbourne, by reason of the alleged diminished number of notaries there : And whereas we have thought it right that those persons who have since the date of the said order made application to be appointed notaries at Melbourne, and whose applications have been refused in consequence of the said order, should have the opportunity of renewing their applications, and that all other persons who may desire to do so should have the opportunity of making similar applications : Now this is to give notice to all such persons that we intend, as soon as conveniently may be after the thirty-first day of December 1871, to proceed to hear and adjudicate upon all applications in reference to the appointment of notaries at Melbourne as shall have been filed in the Registry of the Office of Faculties, situate at No. 10 Great Knightrider street, Doctors' Commons, in the city of London, on or before the said thirty-first day of December 1871.

Dated this third day of August One thousand eight hundred and seventy-one.

(Signed) STEPHEN LUSHINGTON,
(L.S.) Master of the Faculties.

(a) *I.e.*, of the *Government Gazette* of that year.—ED.

RULES UNDER THE "DUTIES ON THE ESTATES OF DECEASED PERSONS STATUTE 1870."[a]

Rules.
13 Nov. 1876.

PURSUANT to the provisions of section 5 of the "*Duties on the Estates of Deceased Persons Statute* 1870," the Governor, by and with the advice of the Executive Council, orders as follows:—

1. That rule four of the rules made under the "*Duties on the Estates of Deceased Persons Statute* 1870," dated the 2nd February 1871, be repealed.

2. That if the duty payable under the "*Duties on the Estates of Deceased Persons Statute* 1870" be not paid within four calendar months from the grant of probate or letters of administration, as the case may be, the Master in Equity of the Supreme Court of the colony of Victoria may (after giving notice as hereinafter mentioned) apply for the order mentioned in section 9 of said Statute.

3. Before making any such application the said Master in Equity shall cause to be served upon the person who ought to pay such duty, his proctor or agent, a notice[b] requiring payment of the duty within the time limited by such notice, and stating that otherwise an application will be made under section 9 of the said Statute; and such notice may be sent by post to the last known place of abode or business of the person to whom such notice is addressed.

GEO. B. KERFERD,
Attorney-General.

Crown Law Offices,
Melbourne, 13th November 1876.

(*a*) As to the operation of these rules in a case where the liability to pay duty was incurred before their making, see *In re Bell*, A.R., 26th February 1877.

(*b*) It is not necessary to specify the length of the notice. The Supreme Court will exercise a like discretion as to the reasonableness of proceedings and indulgence to be allowed, as in other branches of its jurisdiction.—*Ibid.*

[*From the "Victoria Government Gazette" of 16th November* 1877. *No.* 11

RULES UNDER THE "DUTIES ON THE ESTATES OF DECEASED PERSONS STATUTE 1870."

PURSUANT to the provisions of the "*Duties on the Estates of Deceased Persons Statute* 1870," the Governor, by and with the advice of the Executive Council, frames the following rules:—

1. The rules framed under the "*Duties on the Estates of Deceased Persons Statute* 1870," dated respectively the second day of February One thousand eight hundred and seventy-one and the thirteenth day of November One thousand eight hundred and seventy-six, are hereby repealed.

2. The time referred to in section 7 of the said statute as "the prescribed time," wherever such expression is used in the said section shall be two calendar months, and the words, "the prescribed time," wherever they occur in the said section shall be read as "two calendar months."

3. In cases of probate or letters of administration, limited to any particular property of a testator or intestate, the executor or administrator shall, within two calendar months from the grant of probate or letters of administration to him, file the statement mentioned in sub-section V. of section 7 of the said statute.

4. The respective statements required by section 7 of the said statute shall contain the particulars of property and of debts and liabilities respectively required by the said section, and every such statement shall be verified by the affidavit or statutory declaration of the person by the said section required to file the same, and if there shall be more than one such person, then of every such person, and if any other person has wholly or partially prepared such statement, then such statement shall be also verified by the affidavit or statutory declaration of such other person.

5. The time referred to in section 9 of the said statute, after which the duty payable under the said statute must be paid, shall be four calendar months from the grant of probate or letters of administration as the case may be.

6. The notice referred to in section 9 of the said statute, after which the duty payable under the said statute must be paid, shall be a notice signed by the Master-in-Equity or the officer appointed by the Governor under the said statute, addressed to the person liable to pay such duty, specifying the amount of such duty and requiring payment thereof within fourteen days after service of such notice, and stating that in default of payment within such time, application will be made to the Supreme Court for an order that a sufficient part of the testator's or intestate's property may be sold and the proceeds thereof applied in payment of the duty and of the costs of the order and sale and consequent thereon.

7. Every such notice may be served either personally on the person to whom the same is addressed or his proctor or agent, or if there be more than one such person then on any one of such persons, or his proctor or agent, or by sending it through the post in a registered letter addressed to the person to whom the notice is addressed, or if there be more than one such person, then to any one of such persons at his last-known place of abode or business; but no such notice shall be served until after the expiration of four calendar months from the grant of probate or letters of administration, as the case may be.

8. Every settlement referred to in section 20 of the said Statute shall be registered within two calendar months from the death of the settlor, or such further time as the Master may allow.

9. The statement required by s. shall specify the particulars of th comprised in the settlement and th and shall be verified by the affida of the trustee of the settlement; trustee resident in the colony o trustees; or if there be no truste in the colony of Victoria, then b declaration of some person bene settlement; and if any other per prepared such statement, then s verified by the affidavit or statuto person.

10. The Master may assess the any settlement referred to in sec and not registered within the pres time as the Master may allow, acc to be the value of the property co either upon oral evidence taken u affidavits or statutory declaration

11. The time within which the any settlement, in the last prec be paid, shall be four calendar mo settlor.

12. The notice referred to in s as "the prescribed notice," shall said Master-in-Equity or the offic nor under the said statute, addre settlement or any one of them o interested under the settlement, s duty payable under the said statu ment, and requiring payment th after service of such notice, and payment within such time, appli Supreme Court for an order that perty, included in such settlemen of such sale applied in payment o and sale and consequent thereon.

13. Every such notice may be the person to whom the same is a agent, or if there be more than on one of such persons or his solicito through the post in a registered son to whom the notice is address one such person, then to any one known place of abode or business served until after the expiratio from the death of the settlor.

14. Every statement filed und statute shall specify some addre Victoria to which notices, addre or on whose behalf the same is fil such address or place shall be place of abode or business of such

15. No notice mentioned or refe shall be held to be a substitute necessity of any notice of motion or by the ordinary practice of the Jurisdiction.

ROBERT

Crown Law Offices,
Melbourne, 12th November 1877.

NOTICE AND RULES UNDER THE "STAMP STATUTE 1869."

At the Executive Council Chamber, Melbourne, the twelfth day of June 1876.

PRESENT:

His Excellency the Governor

Sir James McCulloch	Mr. Ramsay
Mr. MacPherson	Dr. Madden
Mr. Kerferd	Mr. McLellan.

Order.
12 June 1876.

WHEREAS by the 4th section of the "*Stamp Statute* 1869" (No. 355) it is provided, that from and after such time or respective times as the Governor in Council shall from time to time by notice published in the *Government Gazette* appoint, the following fees, or such of them as shall be specified in such notice, or respective notices, shall be collected by stamps, namely:—All fees payable to the Crown or the consolidated revenue of Victoria, or to the several officers of Government in the several courts and offices in respect of matters or things to be done or performed under certain enactments specified in the schedule to the said Act; and all fees payable to the Crown or the consolidated revenue of Victoria, or to any officers of the Government under any other enactment which the Governor in Council shall by any such notice in the *Government Gazette* direct to be collected by stamps: And whereas by the 5th section it is provided that all or any stamps to be used under the said Statute shall be impressed or adhesive as the Governor in Council shall from time to time direct: And whereas by the 8th section it is provided that the Governor in Council may from time to time frame such rules as may appear to be necessary for carrying out the said Statute and for regulating the use of stamps thereunder, and particularly for prescribing the application thereof to documents from time to time in use or required to be used for the purpose of such stamps and for insuring the proper cancellation of adhesive stamps and keeping accounts of such stamps and for the issuing of stamps in exchange for spoiled stamps: And whereas by an Order in Council, bearing date the fourth day of April A.D. 1871, a notice was given and rules and regulations were framed under the provisions of the said Statute: Now, therefore, His Excellency the Governor of Victoria, with the advice of the Executive Council thereof, doth by this present Order direct that, on and after the first day of July 1876, the following notice and rules shall be substituted and be in force in lieu of the aforesaid notice, rules and regulations:—

1. *Notice of time at which fees are to be collected by stamps.*—Fees shall be collected by stamps under the said Statute on and after the first day of July One thousand eight hundred and seventy-six.

2. *Enactments under which the fees are to be so collected.*—Subject to the exceptions hereinafter provided all fees under the

Order. — 12 June 1876.

enactments specified in the subjoined list shall be collected by stamps :—

An Act to make provision for the better Administration of Justice in the Colony of Victoria, 15th Victoria, No. 10.
The Geelong Gas Company's Act 1858, No. 57.
An Act to incorporate a Company to be called "The Castlemaine Gas Company" and for other purposes, No. 71.
An Act for supplying the District of the Ovens with water, No. 101.
An Act to incorporate a Company to be called "The Bendigo Gas Company" and for other purposes, No. 102.
An Act to incorporate a Company to be called "The Collingwood Fitzroy and District Gas and Coke Company" and for other purposes, No. 103.
The Beechworth Water Works Act 1860, No. 105.
An Act to exempt certain contracts from the law of partnership, No. 179.
The Companies Statute 1864, No. 190.
The Banks and Currency Statute 1864, No. 194.
The Statute of Evidence 1864, No. 197, and the amending Act, No. 443.
The Instruments and Securities Statute 1864, No. 204, and the amending Acts, Nos. 280, 283, and 313.
Real Property Statute 1864, No. 213, and the amending Acts, Nos. 318, 378, and 433.
The Dog Act 1864, No. 229.
The Patents Statute 1865, No. 240, and the amending Act, No. 432.
The Registration of Births, Deaths and Marriages Statute 1865, No. 246.
Friendly Societies Statute 1865, No. 254, and the amending Act, No. 329.
The Aliens Statute 1865, No. 256.
The Public Health Statute 1865, No. 264.
The Justices of the Peace Statute 1865, No. 267, and the amending Act, No. 319.
The Marriage and Matrimonial Causes Statute 1864, No. 268.
The Juries Statute 1865, No. 272, and the amending Act, No. 445.
Insolvency Statute 1865, No. 273.
Insolvency Statute 1871, No. 379, and the amending Act, No. 411.
Common Law Procedure Statute 1865, No. 274, and the amending Act, No. 290.
The Electoral Act 1865, No. 279.
Mining Statute 1865, No. 291, Part II. Administration of Justice.
Transfer of Land Statute, No. 301, and the amending Acts, Nos. 317, 353, and 402.
The Australian Alliance Insurance Company's Act 1867, No. 305.
Lunacy Statute, No. 309, and the amending Act, No. 342.
The Legislative Council Amendment Act 1868, No. 334.

Order.

12 June 1876.

An Act to amend the "Coroners Statute 1865," No. 338.
County Court Statute 1869, No. 345.
The Copyright Act 1869, No. 350.
The Victoria Racing Club Act 1871, No. 398.
The Mining Companies Act 1871, No. 409.
The South Melbourne Gas Company's Act 1872, No. 426.
The Life Assurance Companies Act 1873, No. 474.
Industrial and Provident Societies Act 1873, No. 477.
The Building Societies Act 1874, No. 493.

3. *Exceptions.*—All fees under the said enactments not of right payable into the consolidated revenue of the colony of Victoria.

4. *Stamps to be adhesive.*—Stamps to be used under the Statute shall be adhesive.

5. *All fees to be paid in Stamps.*—Save as hereinbefore excepted, every fee payable under any of the said enactments shall be paid by stamps affixed as hereinafter provided to some paper or document having reference to that in respect of which the fee is payable.

6. *Documents to be stamped.*—Stamps for fees payable in respect of the several matters specified in the first column of the schedule hereto shall be affixed to the corresponding documents specified in the second column of the schedule hereto.

7. *Affixing of Stamps in other cases.*—Stamps for every other fee payable under any of the said enactments shall be affixed to a short written or printed note or præcipe asking for that in respect of which the fee is payable, and signed by or for the person by whom the fee is payable; and the heads of the several departments of the public service in which fees under the said enactment are respectively payable shall from time to time prescribe the form in which such notes or præcipes are to be taken and preserved.

8. *Cancellation of Stamps.*—Before anything is done or permitted to be done, in respect of that for which a fee is payable by stamps, the stamps by which the fee is paid shall be cancelled in manner provided by section 12 of the Statute.

9. *Record of Cancellation.*—The heads of the several departments in which fees payable by stamps shall be collected shall cause an exact account or record to be kept of the number and denomination of all stamps cancelled by the officers of their several departments, and of the dates of such cancellation.

10. *Allowance for spoiled Stamps.*—Where, through any mistake or inadvertence, any stamp has been used and cancelled unnecessarily by any officer in the public service, the head of the department may certify in writing signed by him that such stamp is fit subject for allowance, and on production of the certificate and the stamp to which it relates, the Minister administering the Act may issue a stamp or stamps of equivalent value to the applicant.

Order.

12 June 1876.

SCHEDULE.

COLUMN 1. Matter in respect of which Fee is payable.	COLUMN 2. Document to which the Stamp taken in payment of the Fee is to be affixed.
Document entered, filed, lodged, or sealed.	Document entered, filed, lodged, or sealed.
Writ, summons, order, rule, report, warrant, decree, or other document issued or sealed.	Writ, summons, order, rule, report, warrant, decree, or document issued or sealed.
Recognizance.	Recognizance.
Certificate given.	Certificate.
Bill of costs taxed.	Bill taxed.
Case stated.	Case stated.
Office copy.	Office copy.
Certificate of title under Act No. 301.	The duplicate certificate (*i.e.* the part given out to the public).
Transfer, mortgage, charge and lease (including extra memorials).	The transfer, mortgage, charge and lease kept in the register book.
Deed or instrument registered under the Act No. 213 (including fee for extra folios).	The deed or instrument.
Registration, elector's right.	Certificate of registration, elector's right.

And the Honorable Robert Ramsay, Her Majesty's Postmaster-General for Victoria, shall give the necessary directions herein accordingly.

ROB. WADSWORTH,
Clerk of the Executive Council.

HISTORICAL TABLE

OF

LEGISLATION FOR AND IN VICTORIA,

TO THE CLOSE OF THE

FIRST SESSION OF THE EIGHTH PARLIAMENT,

HOLDEN IN THE

38TH YEAR OF HER MAJESTY QUEEN VICTORIA, 1874.

HISTORICAL TABLE OF LEGISLATION.

PART I.—ACTS OF THE LEGISLATURE OF NEW SOUTH WALES IN FORCE IN PORT PHILLIP, OR VICTORIA.[a]

Date of Act.	Title of Act.	History of Act.
6 Geo. IV. No. 21	An Act for better regulating and preserving Parish and other Registers of Births, Baptisms, Marriages, and Burials in New South Wales and its dependencies, including Van Diemen's Land.	Partly repealed by 5 Wm. IV. No. 2; see 3 Vict. No. 23; as to s. 10 see 14 Vict. No. 19; partly repealed by 17 Vict. No. 12; amended by 4 Wm. IV. No. 4 s. 8; s. 10 repealed by 17 Vict. No. 12 s. 1; repealed by 22 Vict. No. 70.
6 Geo. IV. No. 22	An Act for registering Deeds and Conveyances in New South Wales, and for other purposes.	Attempted to be altered by 3 Vict. No. 8; amended by 5 Vict. No. 21; repealed, except as regards Port Phillip, by 7 Vict. No. 16; s. 6 partially repealed by Criminal Law and Practice Statute 1864; ss. 8, 9, 10 repealed by 24 Vict. No. 112 s. 90; remainder repealed by Real Property Statute 1864.
6 Geo. IV. No. 23	An Act to regulate the Postage of Letters in New South Wales.	Repealed by 5 Wm. IV. No. 24.
7 Geo. IV. No. 3	An Act to repeal an Act intituled "An Act to make Promissory Notes and Bills of Exchange payable in Spanish Dollars available, as if such notes and bills had been drawn payable in sterling money of the realm," and to promote the circulation of sterling money of Great Britain in New South Wales.	Repealed by Banks and Currency Statute 1864.
8 Geo. IV. No. 2	An Act for preventing the mischiefs arising from the printing and publishing newspapers, and papers of a like nature, by persons not known, and for regulating the printing and publication of such papers in other respects; and also for restraining the abuses arising from the publication of blasphemous and seditious libels.	Amended by 2 Vict. No. 20, 5 Vict. No. 19, and by 13 Vict. No. 47; repealed by Printers and Newspapers Registration Statute 1864; and re-enacted as amended in Parts II. and III. thereof; s. 11 re-enacted in Common Law Procedure Statute 1865 s. 414.
8 Geo. IV. No. 3	An Act for imposing a duty upon all newspapers and papers of a like nature, printed to be dispersed and made public.	This Act is not included in ADAMSON; but in CALLAGHAN there appears the note given below in regard to it.[b]

(a) In this part of this Table no notice is taken of Acts not in force in the year 1836, or of Local Acts not extending to Victoria, or of Appropriation or other merely temporary Acts.

(b) "This Act was suspended by the following notice, and has never yet been enforced in this colony:—

'GOVERNMENT NOTICE.

'Colonial Secretary's Office, May 31st 1827.

'Whereas a certain Bill purporting to be an Act intituled "*An Act for imposing a duty upon all newspapers and papers of a like nature, printed to be dispersed and made public,*" hath been published in the *Sydney Gazette*, bearing date the fourth instant, and the said publication being premature, notice is hereby given to such effect; and further, that all matters and things in the said Bill contained will be suspended until full and effectual provision shall be made in respect of the same, in due course of law, and the same shall be published accordingly.

'By command of His Excellency the Governor,

'ALEXANDER MCLEAY.'"

Date of Act.	Title of Act.	History of Act.
8 Geo. IV. No. 5	An Act for preventing the printing and publishing of books and papers by persons not known.	Amended by 13 Vict. No. 47; repealed by Printers and Newspapers Registration Statute 1864, and re-enacted in Parts I. and III. thereof; so much as adopts ss. 4, 5, and 6 of 7 Geo. IV. c. 64, repealed by Coroners Statute 1865.
9 Geo. IV. No. 1	An Act for adopting certain Acts of Parliament, passed during the seventh and eighth years of His present Majesty King George the Fourth, for the amendment of the law and the improvement of the Administration of Justice in criminal cases.	Repealed by Criminal Law and Practice Statute 1864; and, as to ss. 4, 5, 6, of 7 Geo. IV. c. 64, again by Coroners Statute 1865.
9 Geo. IV. No. 2	An Act for adopting a certain Act of Parliament, passed in the seventh and eighth years of His Majesty King George the Fourth, to regulate the Practice of Arrests.	Repealed, and s. 8 of adopted Act re-enacted, by Common Law Procedure Statute 1865.
9 Geo. IV. No. 5	An Act for the better regulation of the Hulk or Floating Prison in Sydney Harbor, and for establishing Houses of Correction in the colony.	Repealed in effect by 4 Vict. No. 29.
9 Geo. IV. No. 6	An Act for enabling the Governor or Acting Governor of New South Wales to grant Letters of Denization to such Foreigners as may arrive in the colony with a recommendation to that effect from His Majesty's Principal Secretary of State.	Amended by 11 Vict. No. 32; repealed by 26 Vict. No. 166.
9 Geo. IV. No. 8	An Act for enabling persons holding certain public offices in New South Wales to take Apprentices to serve under them and their successors in office, and for regulating all matters relating to Masters and Apprentices.	Repealed and re-enacted in part by Master and Apprentice Statute 1864.
9 Geo. IV. No. 9	An Act for the better regulation of Servants, Laborers, and Workpeople.	Repealed by 4 Vict. No. 23.
9 Geo. IV. No. 12	An Act to regulate the Dividing Fences of adjoining lands.	Repealed and re-enacted by Fences Statute 1865.
9 Geo. IV. No. 13	An Act to regulate the licensing of Auctioneers, and the collection of duties on property sold by auction.	Repealed by 11 Vict. No. 16.
9 Geo. IV. No. 14	An Act for regulating Places of Public Exhibition and Entertainment.	Repealed by 14 Vict. No. 23.
10 Geo. IV. No. 1	An Act to provide for the holding of General or Quarter Sessions, and for continuing the summary jurisdiction of Justices of the Peace in and for the territory of New South Wales and the dependencies thereof until further provision shall be made for the same.	Repealed by 10 Geo. IV. No. 7 s. 8.
10 Geo. IV. No. 7	An Act for instituting and regulating Courts of General and Quarter Sessions in New South Wales.	Amended by 3 Wm. IV. No. 3, 4 Wm. IV. No. 16, 5 Wm. IV. No. 17, 3 Vict. No. 10. Repealed by 16 Vict. No. 3.
10 Geo. IV. No. 9	An Act declaring that a certain Act of Parliament, passed in the tenth year of the reign of His Majesty King George the Fourth, intituled "An Act for the relief of His Majesty's Roman Catholic Subjects," extends to and is in force in the colony of New South Wales.	Unrepealed; see 21 Vict. No. 45.

Date of Act.	Title of Act.	History of Act.
11 Geo. IV. No. 9	An Act for confirming certain rates and duties heretofore levied and collected in the colony, and for continuing the like rates and duties until further provision shall be made.	Amended by 3 Wm. IV. No. 6 and 6 Wm. IV. Nos. 13 and 14. Partially repealed by 3 Vict. No. 9; see 4 Vict. No. 11; entirely repealed by 16 Vict. No. 2.
2 Wm. IV. No. 2	An Act for permitting the importation into New South Wales of Spirits, the produce of the British Possessions in North America, upon payment of the same rate of duty as is chargeable on the importation of Spirits the produce of the British West Indies.	Repealed implicitly by 4 Vict. No. 11, and expressly by 16 Vict. No. 2.
2 Wm. IV. No. 3	An Act for regulating the Constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales.	Continued and amended by 4 Wm. IV. No. 12, continued by 5 Wm. IV. No. 25, 6 Wm. IV. No. 15, 7 Wm. IV. No. 9, 1 Vict. No. 1, 3 Vict. No. 3, 3 Vict. No. 11, 4 Vict. No. 28, 5 Vict. No. 25, 7 Vict. No. 29, 8 Vict. No. 4, and 9 Vict. No. 32; repealed by 11 Vict. No. 20.
2 Wm. IV. No. 6	An Act for authorizing all Fines, Penalties, and Forfeitures to be levied and paid in sterling money of the realm.	Operation exhausted.
2 Wm. IV. No. 7	An Act for regulating Foreign Attachment in New South Wales.	Repealed by 4 Vict. No. 6.
2 Wm. IV. No. 10	An Act for the better regulation and government of Seamen in the Merchant Service in the colony of New South Wales, and for the protection of Masters of Ships from vexatious suits in the said colony.	Amended and partly repealed by 7 Vict. No. 21; repealed by 13 Vict. No. 28.
2 Wm. IV. No. 11	An Act for the relief of Debtors in execution for Debts which they are unable pay.	Expired, revived and continued by 5 Wm. IV. No. 4, 6 Wm. IV. No. 18, 2 Vict. No. 14; expired, revived and amended by 4 Vict. No. 24; repealed by 5 Vict. No. 17.
2 Wm. IV. No. 12	An Act for repealing so much of an Act intituled "An Act to continue until further provision shall be made certain duties, tolls, rates, fees, and other sums of money imposed by the Governors of New South Wales, and for other purposes," as relates to the levying Tolls in New South Wales, and for raising a fund towards making, repairing, and upholding public roads, bridges, and ferries, and for regulating the collection of tolls thereon.	Extended by 14 Vict. No. 5; repealed by 16 Vict. No. 40.
2 Wm. IV. No. 13	An Act to establish a Savings Bank in New South Wales and to provide for the management thereof, and for the security of Deposits therein.	Repealed by 5 Wm. IV. No. 16; see 4 Vict. No. 15.
3 Wm. IV. No. 1	An Act for subjecting Vessels coming to New South Wales from certain places to the performance of Quarantine.	Amended by 5 Vict. No. 12, and by 13 Vict. No. 35; repealed by Public Health Statute 1865.
3 Wm. IV. No. 2	An Act for better regulating Courts of Requests in the colony of New South Wales.	Amended by 4 Vict. No. 25; repealed by 6 Vict. No. 15, and by 10 Vict. No. 10.

Date of Act.	Title of Act.	History of Act.
3 Wm. IV. No. 3	An Act to consolidate and amend the laws for the transportation and punishment of Offenders in New South Wales, and for defining the respective powers and authorities of General Quarter Sessions and of Petty Sessions, and for determining the places at which the same shall be holden, and for better regulating the summary jurisdiction of Justices of the Peace, and for repealing certain laws and ordinances relating thereto.	Amended by 4 Wm. IV. No. 16; see 2 Vict. No. 5 and 3 Vict. No. 22; amended by 4 Vict. No. 10; partially repealed by 5 Vict. No. 8; doubts removed by 11 Vict. No. 41; sections 14 and 15 repealed by 16 Vict. No. 3; ss. 16 and 17 repealed by Justices of Peace Statute 1865 and partly re-enacted in Part III. thereof; the remainder repealed by the Statute of Gaols 1864.
3 Wm. IV. No. 4	An Act for establishing Standard Weights and Measures, and for preventing the use of such as are false and deficient.	See 13 Vict. No. 20; repealed by 25 Vict. No. 151.
3 Wm. IV. No. 5	An Act for preventing the extension of the infectious disease commonly called the Scab in Sheep or Lambs in the colony of New South Wales.	Made perpetual by 5 Wm. IV. No. 19; amended by 6 Wm. IV. No. 10; see also 9 Vict. No. 10; repealed by 10 Vict. No. 8.
3 Wm. IV. No. 6	An Act for the better preservation of the Ports, Harbors, Havens, Roadsteads, Channels, Navigable Creeks and Rivers in New South Wales, and the better regulation of Shipping in the same.	Extended by 5 Wm. IV. No. 13; amended by 6 Wm. IV. Nos. 7, 13, and 14, 7 Wm. IV. No. 2, 4 Vict. No. 4, 5 Vict. No. 18, 6 Vict. No. 10, 7 Vict. No. 12, 9 Vict. No. 13, 13 Vict. No. 30; see also 7 Vict. No. 9; repealed by 16 Vict. No. 12.
3 Wm. IV. No. 8	An Act for licensing Public Houses, and for regulating the retail of Fermented and Spirituous Liquors in New South Wales.	Amended by 6 Wm. IV. No. 8, and by 8 Wm. IV. No. 8; repealed by 2 Vict. No. 18.
4 Wm. IV. No. 3	An Act to repeal an Act of the Governor and Council of New South Wales intituled "An Act to authorize the erection of Pounds, and for regulating the Impounding of Cattle," and to make further and other provisions in lieu thereof.	Amended by 4 Vict. No. 1, and 9 Vict. No. 7; repealed by 18 Vict. No. 30.
4 Wm. IV. No. 4	An Act for adopting and applying certain Acts of Parliament relating to Forgeries; and an Act for abolishing the punishment of Death in certain cases in New South Wales and its dependencies, and for making further provisions therein.	Repealed by Criminal Law and Practice Statute 1864, and re-enacted in effect in Part IV. thereof.
4 Wm. IV. No. 5	An Act for appointing the Fees to be taken in the several Courts of Police and Petty Sessions, and by the Clerks of Justices acting singly in the colony of New South Wales.	As to Melbourne, see 6 Vict. No. 8; repealed by 25 Vict. No. 159.
4 Wm. IV. No. 7	An Act for regulating the Police in the town and port of Sydney, and for removing and preventing nuisances and obstructions therein.	Extended by 5 Wm. IV. No. 13; amended by 2 Vict. No. 3; partially repealed by 14 Vict. No. 38; repealed by 18 Vict. No. 14.
4 Wm. IV. No. 10	An Act for protecting the Crown Lands of this Colony from encroachment, intrusion, and trespass.	Amended by 5 Wm. IV. No. 12; repealed by 25 Vict. No. 145 (Land Act 1862).
4 Wm. IV. No. 11	An Act for making, altering, and improving the Roads throughout the colony of New South Wales, and for opening and improving the Streets in the towns thereof.	See 4 Vict. No. 12; repealed by 16 Vict. No. 40.

Date of Act.	Title of Act.	History of Act.
4 Wm. IV. No. 12	An Act to continue for a limited time an Act of the Governor and Council of New South Wales intituled "An Act for regulating the Constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales, and to make further provision for Trial by Jury in criminal cases in the said colony."	See *ante*, 2 Wm. IV. No. 3.
4 Wm. IV. No. 16	An Act to amend an Act of the Governor and Council intituled "An Act for instituting Courts of General and Quarter Sessions in New South Wales."	Partially repealed and amended by 3 Vict. No. 10; repealed by 16 Vict. No. 3.
4 Wm. IV. No. 17	An Act for adopting and applying a certain Act of Parliament for rendering a written memorandum necessary to the validity of certain promises and engagements.	Repealed, and adopted Act re-enacted, by Instruments and Securities Statute 1864.
5 Wm. IV. No. 1	An Act for regulating the Slaughtering of Cattle.	Amended by 7 Vict. No. 2; amended as to Sydney by 13 Vict. No. 42; repealed by Licensed Butchers and Abattoirs Statute 1864.
5 Wm. IV. No. 2	An Act to remove doubts as to the validity of certain Marriages had and solemnized within the colony of New South Wales, and to regulate the registration of certain Marriages, Baptisms, and Burials.	Amended by 3 Vict. No. 32; repealed by 22 Vict. No. 70.
5 Wm. IV. No. 3	An Act for apprenticing the Children of the Male and Female Orphan Schools and other poor children in New South Wales.	Section 6 repealed by 8 Vict. No. 2; the remainder repealed by Master and Apprentice Statute 1864.
5 Wm. IV. No. 4	An act to revive and continue for a limited time an Act of the Governor in Council passed in the second year of the reign of His present Majesty intituled "An Act for the relief of Debtors in execution for Debts which they are unable to pay."	See *ante*, 2 Wm. IV. No. 11.
5 Wm. IV. No. 7	An Act for licensing and regulating Hawkers and Pedlers.	Repealed by 13 Vict. No. 36.
5 Wm. IV. No. 8	An Act for adopting and applying certain Acts of Parliament passed in the eleventh year of the reign of His late Majesty, and first year of the reign of His present Majesty, and in the first and second years of the reign of His present Majesty respectively, in the administration of Justice in New South Wales, in like manner as other laws of England are applied therein.	Repealed as to 11 Geo. IV. and 1 Wm. IV. c. 36 and c. 46 by Equity Practice Statute 1865; as to 11 Geo. IV. and 1 Wm. IV. c. 40 by Statute of Wills 1864; as to 11 Geo. IV. and 1 Wm. IV. c. 46 by Equity Practice Statute 1865; as to 11 Geo. IV. and 1 Wm. IV. c. 47 by Real Property Statute 1864; as to 11 Geo. IV. and 1 Wm. IV. c. 60 by Trustee Act 1856; and again by the Statute of Trusts 1864; as to 11 Geo. IV. and 1 Wm. IV. c. 65 (except as to idiots, lunatics, or persons of unsound mind, or their estates) by Equity Practice Statute 1865. Repealed as to excepted part by 31 Vict. No. 309, Lunacy Statute 1867; as to 1 Wm. IV. c. 21 and 1 & 2 Wm. IV. c. 58 by Common Law Procedure Statute 1865; as to re-enactments see the respective Acts *post*.

Date of Act.	Title of Act.	History of Act.
5 Wm. IV. No. 9	An Act to facilitate the apprehension of transported Felons and Offenders illegally at large and of persons found with arms and suspected to be Robbers.	Contained by 6 Wm. IV. No. 17, 1 Vict. No. 2, 3 Vict. No. 26, 5 Vict. No. 23, 8 Vict. No. 5, 9 Vict. No. 31, 11 Vict. No. 45.
5 Wm. IV. No. 10	An Act for removing doubts respecting the application to New South Wales of the laws and statutes of England relating to Usury, and to limit and define the rate of Interest which may be recovered in cases where it hath not been previously agreed on between the parties.	Section 2 repealed by 8 Vict. No. 17; repealed by Instruments and Securities Statute 1864.
5 Wm. IV. No. 12	An Act to amend an Act intituled "An Act for protecting the Crown Lands of this colony from encroachment, intrusion, and trespass."	Repealed by 25 Vict. No. 145 (Land Act 1862).
5 Wm. IV. No. 13	An Act for protecting Public Wharves, Piers, Quays, and Jetties.	Repealed by 16 Vict. No. 12.
5 Wm. IV. No. 15	An Act to provide for the general regulation of the Revenue of Customs in New South Wales."	Repealed by 3 Vict. No. 8.
5 Wm. IV. No. 16	An Act to repeal in part and to amend and extend the provisions of an Act intituled "An Act to establish a Savings Bank in New South Wales and to provide for the management thereof, and for the security of Deposits therein."	Repealed in part by 3 Vict. No. 12; see 4 Vict. No. 15.
5 Wm. IV. No. 17	An Act to amend an Act intituled "An Act for instituting and regulating Courts of General and Quarter Sessions in New South Wales."	Repealed by 16 Vict. No. 8.
5 Wm. IV. No. 19	An Act to make perpetual an Act intituled "An Act for preventing the extension of the infectious disease commonly called the Scab in Sheep or Lambs in the colony of New South Wales."	Amended by 6 Wm. IV. No. 10; see also 9 Vict. No. 10; repealed by 10 Vict. No. 8.
5 Wm. IV. No. 21	An Act for appointing and empowering commissioners to examine and report upon Claims to Grants of Land under the Great Seal of the colony of New South Wales.	Amended by 6 Vict. No. 11; operation exhausted.
5 Wm. IV. No. 22	An Act to regulate Summary Proceedings before Justices of the Peace.	Repealed by 16 Vict. No. 8, and again by 25 Vict. No. 159. This Act, however, is still in operation for the purposes of 11 Vict. No. 33 s. 13 (Supreme Court, *ante*, p. 2428).
5 Wm. IV. No. 24	An Act to provide for the Conveyance and Postage of Letters.	Amended by 2 Vict. No. 17, 4 Vict. No. 9, and 5 Vict. No. 15; repealed by 18 Vict. No. 38, and again by 15 Vict. No. 9.
5 Wm. IV. No. 25	An Act to continue for a limited time an Act of the Governor and Council of New South Wales intituled "An Act for regulating the Constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales," and to make further provisions for Trial by Jury.	See *ante*, 2 Wm. IV. No. 8.
6 Wm. IV. No. 1	An Act to regulate the making and sale of bread, and to prevent the adulteration thereof and of meal and flour.	Sections 3, 9, 10, 11 repealed by 17 Vict. No. 10; the remainder repealed and re-enacted by Bakers and Millers Statute 1865.
6 Wm. IV. No. 2	An Act for regulating Stage Carriages in New South Wales.	Extended by 13 Vict. No. 5; repealed and re-enacted by 27 Vict. No. 217.

Date of Act.	Title of Act.	History of Act.
6 Wm. IV. No. 4	An Act for abating the nuisance occasioned by dogs in the streets of certain towns and on highways in New South Wales.	Repealed by Dog Act 1864.
6 Wm. IV. No. 6	An Act for the prevention of Vagrancy and for the punishment of idle and disorderly persons, rogues and vagabonds, and incorrigible rogues in the colony of New South Wales.	Repealed by 13 Vict. No. 46, and again by 16 Vict. No. 22.
6 Wm. IV. No. 7	An Act for amending "An Act for the better preservation of the Ports, Harbors, Havens, Roadsteads, Channels, Navigable Creeks, and Rivers in New South Wales, and the better regulation of Shipping in the same."	Repealed by 16 Vict. No. 12.
6 Wm. IV. No. 8	An Act to alter and amend an Act of the Governor with the advice of the Legislative Council passed in the third year of the reign of His present Majesty intituled "An Act for licensing Public Houses and for regulating the retail of Fermented and Spirituous Liquors in New South Wales."	Repealed by 2 Vict. No. 18.
6 Wm. IV. No. 10	An Act to amend and extend the provisions of an Act intituled "An Act for preventing the extension of the infectious disease commonly called the Scab in Sheep or Lambs in the colony of New South Wales."	See 9 Vict. No. 10; repealed by 10 Vict. No. 8.
6 Wm. IV. No. 12	An Act to remove doubts respecting the power of the Supreme Court of New South Wales to do and perform certain acts which are required to be done and performed by His Majesty's courts in England.	Unrepealed, Supreme Court *ante*, p. 2427.
6 Wm. IV. No. 15	An Act further to continue for a limited time an Act intituled "An Act for regulating the Constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales," and to make further provision for Trial by Jury.	See *ante*, 2 Wm. IV. No. 3.
6 Wm. IV. No. 16	An Act to remove doubts concerning the validity of Grants of Land in New South Wales.	Operation exhausted.
6 Wm. IV. No. 17	An Act to continue for a limited time an Act intituled "An Act to facilitate the apprehension of transported Felons, and Offenders illegally at large and of persons found with arms and suspected to be Robbers."	See *ante*, 5 Wm. IV. No. 9.
6 Wm. IV. No. 18	An Act further to continue for a limited time an Act intituled "An Act for the relief of Debtors in execution for Debts which they are unable to pay."	Repealed by 5 Vict. No. 17.
7 Wm. IV. No. 1	An Act for ascertaining the number of the Inhabitants of the colony of New South Wales in the year One thousand eight hundred and thirty-six.	Operation exhausted.
7 Wm. IV. No. 2	An Act for the amendment of the law respecting Pilots and Pilotage.	Amended by 11 Vict. No. 15, 14 Vict. No. 37.
7 Wm. IV. No. 3	An Act to promote the building of Churches and Chapels, and to provide for the maintenance of Ministers of Religion in New South Wales.	Amended by 8 Wm. IV. Nos. 5 and 7, 2 Vict. No. 16, and 4 Vict. No. 18; repealed by 16 Vict. No. 28.
7 Wm. IV. No. 4	An Act to restrain the unauthorized occupation of Crown Lands.	Continued and amended by 2 Vict. No. 19, which is repealed by 2 Vict. No. 27.
7 Wm. IV. No. 6	An Act to prevent Clandestine Marriages and to provide for the issuing of licenses.	Amended by 2 Vict. No. 13; repealed by 22 Vict. No. 70.

Date of Act.	Title of Act.	History of Act.
7 Wm. IV. No. 8	An Act for adopting certain Acts of Parliament, passed in the third and fourth years of the reign of His present Majesty King William the Fourth, in the administration of Justice in New South Wales in like manner as other laws of England are applied therein.	Repealed and adopted Acts re-enacted by Real Property Statute 1864.
7 Wm. IV. No. 9	An Act to further continue for a limited time an Act intituled "An Act for regulating the Constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales."	See *ante*, 2 Wm. IV. No. 3.
8 Wm. IV. No. 2	An Act for adopting certain Acts of Parliament passed in the third and fourth years of the reign of His present Majesty King William the Fourth, and the fourth and fifth years of the reign of His said Majesty, and the sixth and seventh years of the reign of His said Majesty respectively, and applying the same in the administration of Justice in New South Wales in like manner as other laws of England are applied therein.	Repealed by Criminal Law and Practice Statute 1864.
8 Wm. IV. No. 3	An Act for adopting a certain Act of Parliament, passed in the third and fourth years of the reign of His present Majesty King William the Fourth, and applying the same in the administration of Justice in New South Wales in like manner as other laws of England are applied therein.	Repealed and adopted Act re-enacted by Real Property Statute 1864.
8 Wm. IV. No. 5	An Act to regulate the temporal affairs of the Churches and Chapels of the United Church of England and Ireland in New South Wales.	Repealed by 25 Vict. No. 157.
8 Wm. IV. No. 7	An Act to regulate the temporal affairs of Presbyterian Churches and Chapels connected with the Church of Scotland in the colony of New South Wales.	Amended by 4 Vict. No. 18; see also 17 Vict. No. 19; unrepealed.
8 Wm. IV. No. 8	An Act to stay certain proceedings under an Act intituled "An Act for licensing Public Houses, and for regulating the retail of Fermented and Spirituous Liquors in New South Wales," and for making further provision for granting such licenses.	Section 3 repealed by 13 Vict. No. 29; operation exhausted.
1 Vict. No. 1	An Act to further continue for a limited time an Act intituled "An Act for regulating the Constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales."	See *ante*, 2 Wm. IV. No. 3.
1 Vict. No. 2	An Act further to continue for a limited time an Act intituled "An Act to facilitate the apprehension of transported Felons and Offenders illegally at large and of persons found with arms and suspected to be Robbers."	See *ante*, 5 Wm. IV. No. 9.
1 Vict. No. 3	An Act to provide for the attendance of Medical Witnesses at Coroners' Inquests and Inquiries held by Justices of the Peace.	Amended by 2 Vict. No. 22, 8 Vict. No. 8, 9 Vict. No. 12, 17 Vict. No. 14; repealed by Medical Practitioners Statute 1865, and re-enacted in Part III. thereof.
1 Vict. No. 4	An Act for the investment of Moneys belonging to Intestate Estates by the Supreme Court in the New South Wales Savings Bank at Sydney.	Extended by 11 Vict. No. 24; see 13 Vict. No. 44.

Date of Act.	Title of Act.	History of Act.
2 Vict. No. 2	An Act for regulating the Police in the towns of Parramatta, Windsor, Maitland, Bathurst, and other towns respectively, and for removing and preventing nuisances and obstructions, and for the better alignment of streets therein.	Partially repealed by 3 Vict. No. 19, 6 Vict. No. 7 s. 2, 14 Vict. No. 38, and by 16 Vict. Nos. 24 and 36; explained and amended by 11 Vict. Nos. 17 and 44; repealed by 18 Vict. No. 14 (Town and Country Police Act 1854).
2 Vict. No. 3	An Act to alter and amend an Act intituled "An Act for regulating the Police in the town and port of Sydney, and for removing and preventing nuisances and obstructions therein."	Repealed by Town and Country Police Act 1854.
2 Vict. No. 5	An Act to provide for Trial by Jury at the Courts of Quarter Sessions to be held at Melbourne and Port Macquarie.	Repealed by 11 Vict. No. 20.
2 Vict. No. 6	An Act to enable the Governor of New South Wales to order the issuing of Licenses to retail Fermented and Spirituous Liquors for the present year in certain cases.	Expired.
2 Vict. No. 7	An Act to regulate the temporal affairs of the Religious Societies denominated Wesleyan Methodists, Independents, and Baptists.	Unrepealed.
2 Vict. No. 8	An Act for the more effectual recovery of Fines and enforcement of forfeited Recognizances imposed and entered into by and before Justices of the Peace in New South Wales.	Repealed by Crown Remedies and Liability Statute 1865.
2 Vict. No. 10	An Act for adopting certain Acts of Parliament passed in the first year of the reign of Her Majesty Queen Victoria in the administration of Justice in New South Wales in like manner as other laws of England are applied therein.	Partly repealed by 16 Vict. No. 7; repealed by Criminal Law and Practice Statute 1864.
2 Vict. No. 11	An Act to facilitate the apprehension of Offenders escaping from the island of Van Diemen's Land or from South Australia to the colony of New South Wales.	Repealed by Justices of Peace Statute 1865.
2 Vict. No. 12	An Act for preventing the extension of the disease commonly called the Influenza or Catarrh in Sheep and Lambs in the colony of New South Wales.	Continued by 3 Vict. No. 27, 5 Vict. No. 22, 8 Vict. No. 3; amended by 9 Vict. No. 22; repealed by 10 Vict. No. 8.
2 Vict. No. 13	An Act to authorize the Marriage of Minors without the consent of parents or guardians in certain cases.	Repealed by 22 Vict. No. 70.
2 Vict. No. 14	An Act to revive and continue for a limited time an Act passed in the second year of the reign of his late Majesty King William the Fourth intituled "An Act for the relief of Debtors in execution for Debts which they are unable to pay," and to make certain amendments therein.	See *ante*, 2 Wm. IV. No. 11; repealed by 5 Vict. No. 17.
2 Vict. No. 17	An Act to amend an Act intituled "An Act to provide for the Conveyance and Postage of Letters."	Amended by 5 Vict. No. 15; also see *ante*, 5 Wm. IV. No. 24.
2 Vict. No. 18	An Act for consolidating and amending the laws relating to the licensing of Public Houses, and for further regulating the sale and consumption of Fermented and Spirituous Liquors in New South Wales.	Amended by 3 Vict. No. 13, 6 Vict. No. 13, 7 Vict. No. 7, 7 Vict. No. 26; repealed by 13 Vict. No. 29.
2 Vict. No. 19	An Act to continue and amend an Act intituled "An Act to restrain the unauthorized occupation of Crown Lands.	Repealed by 2 Vict. No. 27.

Date of Act.	Title of Act.	History of Act.
2 Vict. No. 20	An Act to amend an Act intituled "An Act for preventing the mischiefs arising from the printing and publishing newspapers, and papers of a like nature, by persons not known, and for regulating the printing and publication of such papers in other respects; and also for restraining the abuses arising from the publication of blasphemous and seditious libels.	Amended by 5 Vict. No. 19, and by 13 Vict. No. 47; repealed by Printers and Newspapers Registration Statute 1864.
2 Vict. No. 21	An Act to indemnify the Officers of Customs and others for having permitted the importation of Liqueurs, Cordials, and Spirituous Syrups on payment of less than the accustomed duty.	Operation exhausted; section 1 repealed by 16 Vict. No. 2.
2 Vict. No. 22	An Act to define the qualifications of Medical Witnesses at Coroners' Inquests and Inquiries held before Justices of the Peace in the colony of New South Wales.	Amended by 8 Vict. No. 8, 9 Vict. No. 12, 17 Vict. No. 14; repealed by Medical Practitioners Statute 1865.
2 Vict. No. 23	An Act for the more effectual appropriation of Fines and Penalties in certain cases in the colony of New South Wales.	Amended by 11 Vict. No. 29; repealed by 21 Vict. No. 17.
2 Vict. No. 24	An Act to regulate the Distillation of Spirits in the colony of New South Wales, and for the issue of licenses for distilling, rectifying, or compounding spirits therein.	Repealed by 3 Vict. No. 9.
2 Vict. No. 27	An Act further to restrain the unauthorized occupation of Crown Lands, and to provide the means of defraying the expenses of a Border Police.	Amended and continued by 5 Vict. No. 1.
3 Vict. No. 1	An Act to remove doubts concerning the validity of certain Grants of Land in New South Wales.	Operation exhausted.
3 Vict. No. 3	An Act to repeal an Act relating to the Revenue of Customs in New South Wales, and to provide for the general regulation thereof.	Amended by 7 Vict. No. 18; repealed by 9 Vict. No. 15.
3 Vict. No. 4	An Act to render references to Arbitration more effectual.	Repealed by Common Law Procedure Statute 1865, and re-enacted in Part II., division 17 thereof.
3 Vict. No. 5	An Act for adopting a certain Act of Parliament intituled "An Act for the amendment of the laws with respect to Wills" in the administration of Justice in New South Wales in like manner as other laws of England are applied therein.	So much as relates to section 6 of adopted Act repealed by 27 Vict. No. 230; remainder repealed and the adopted Act re-enacted in part by Wills Statute 1864.
3 Vict. No. 6	An Act to establish Courts of Requests at the towns of Melbourne and Port Macquarie in the colony of New South Wales.	Repealed by 6 Vict. No. 15, and again by 10 Vict. No. 10.
3 Vict. No. 7	An Act to remove doubts as to the validity of certain Marriages had and solemnized within the colony of New South Wales by Ministers of the Wesleyan Methodist Society, and to regulate the registration of certain Marriages, Baptisms, and Burials.	See 3 Vict. No. 23; repealed by 22 Vict. No. 70.
3 Vict. No. 8	An Act to amend an Act intituled "An Act for registering Deeds and Conveyances in New South Wales and for other purposes," and to prevent convicts under sentence from acting as conveyancers.	This Act came into force on 1st November 1839. Her Majesty's disallowance was signified in *Government Gazette* of 23rd December 1840.
3 Vict. No. 9	An Act to consolidate and amend the laws for the Distillation of Spirits in the colony of New South Wales, and for the issue of licenses for distilling, rectifying, and compounding spirits therein, and for repealing certain laws relating thereto.	Amended by 4 Vict. No. 16, 5 Vict. No. 16, and explained and amended by 7 Vict. Nos. 8 and 27, and amended by 8 Vict. No. 10 and 9 Vict. No. 26; repealed by 13 Vict. No. 27.

Date of Act.	Title of Act.	History of Act.
3 Vict. No. 10	An Act to alter and improve the Mode of Electing a Chairman for Courts of General and Quarter Sessions in New South Wales.	Repealed by 16 Vict. No. 3.
3 Vict. No. 11	An Act to make further regulation with respect to Trial by Jury in criminal issues in the colony of New South Wales, and to amend the form of proceeding in criminal prosecutions in said colony.	Repealed by 11 Vict. No. 20.
3 Vict. No. 12	An Act to consolidate and amend the laws relating to the Savings Bank of New South Wales.	Extended to Port Phillip, and amended by 5 Vict. No. 5; partly repealed by 7 Vict. No. 6; amended by 9 Vict. No. 25 and 15 Vict. No. 11; repealed by 16 Vict. No. 37.
3 Vict. No. 13	An Act to amend an Act intituled "An Act for consolidating and amending the laws relating to the licensing of Public Houses, and for further regulating the sale and consumption of Fermented and Spirituous Liquors in New South Wales."	See *ante*, 2 Vict. No. 18.
3 Vict. No. 15	An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain cases, in New South Wales and the dependencies thereof.	Repealed by Common Law Procedure Statute 1865, and re-enacted in Part II., division 23 thereof.
3 Vict. No. 16	An Act to allow the Aboriginal Natives of New South Wales to be received as competent witnesses in criminal cases.	Disallowed.
3 Vict. No. 18	An Act for extending the Remedies of Creditors against the property of Debtors in New South Wales and the dependencies thereof.	Repealed by Common Law Practice Act 1856.
3 Vict. No. 19	An Act to authorize the establishment of Markets in certain towns of the colony of New South Wales; and for the appointment of commissioners to manage the same.	Amended by 5 Vict. No. 2; explained and amended by 11 Vict. No. 17; as to Geelong see 13 Vict. No. 40 s. 6; repealed and re-enacted as amended by Markets Statute 1864.
3 Vict. No. 21	An Act to make good certain Contracts which have been or may be entered into by certain banking and other copartnerships.	Repealed by Companies Statute 1864.
3 Vict. No. 22	An Act to abolish the transportation of Female Convicts, and to provide for the more effectual punishment of Female Offenders within the colony of New South Wales.	Amended by 5 Vict. No. 3; repealed by Statute of Gaols 1864.
3 Vict. No. 23	An Act for the better ensuring the registration of Marriages, Baptisms, and Burials.	Repealed by 22 Vict. No. 70.
3 Vict. No. 25	An Act to further continue for a limited time an Act intituled "An Act for regulating the Constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales."	See *ante*, 2 Wm. IV. No. 3.
3 Vict. No. 26	An Act to further continue for a limited time an Act intituled "An Act to facilitate the apprehension of transported Felons and Offenders illegally at large and of persons found with arms and suspected to be Robbers."	See *ante*, 5 Wm. IV. No. 9.
3 Vict. No. 27	An Act to continue for a limited time an Act intituled "An Act for preventing the extension of the disease commonly called the Influenza or Catarrh in Sheep and Lambs in the colony of New South Wales."	See *ante*, 2 Vict. No. 12; repealed by 10 Vict. No. 8.

Date of Act.	Title of Act.	History of Act.
3 Vict.	An Act for facilitating proceedings by and against a certain Banking Company, called the Union Bank of Australia, and for other purposes therein mentioned.	Declared by 21 Vict. No. 51 to have been re-enacted for Victoria, as also 11 Vict. by force of 21 Vict. No. 22; amended by 11 Vict.; unrepealed.
4 Vict. No. 1	An Act to amend an Act intituled "An Act to repeal an Act of the Governor and Council of New South Wales intituled 'An Act to authorize the erection of Pounds and for regulating the Impounding of Cattle, and to make further and other provisions in lieu thereof,'" and to extend the provisions thereof.	See 9 Vict. No. 7; repealed by 18 Vict. No. 30.
4 Vict. No. 2	An Act for enabling the principal Officers of Her Majesty's Ordnance to hold Estates and Property in the colony of New South Wales for military purposes; and for granting certain other powers to the said principal officers and respective officers resident in the said colony.	Unrepealed; but see 24 Vict. No. 117, and Land Act 1862.
4 Vict. No. 4	An Act to amend an Act intituled "An Act for the better preservation of the Ports, Harbors, Havens, Roadsteads, Channels, Navigable Creeks and Rivers in New South Wales, and the better regulation of Shipping in the same."	Amended by 5 Vict. No. 18, 6 Vict. No. 10, 7 Vict. No. 12; see *post*, 7 Vict. No. 12, 9 Vict. No. 13, 15 Vict. No. 5; repealed by 16 Vict. No. 12.
4 Vict. No. 5	An Act to provide for the maintenance of Deserted Wives and Children.	Doubts removed by 24 Vict. No. 104; ss. 12 and 13 repealed and re-enacted in effect by The Master and Apprentice Statute 1864; the remainder repealed by Marriage and Matrimonial Causes Statute 1864 and re-enacted in Part III. thereof.
4 Vict. No. 6	An Act to consolidate and amend the laws relating to Actions against persons absent from the colony, and against persons sued as Joint Contractors.	Sections 11, and 15 to 19 inclusive, repealed by Common Law Practice Act 1856; remainder repealed by Common Law Procedure Statute 1865, and re-enacted in Part II., division 15 thereof.
4 Vict. No. 8	An Act to prohibit the Aboriginal Natives of New South Wales from having fire-arms or ammunition in their possession without the permission of a magistrate.	Disallowed.
4 Vict. No. 9	An Act further to amend an Act intituled "An Act to provide for the Conveyance and Postage of Letters."	Repealed by 13 Vict. No. 38, and again by 15 Vict. No. 9.
4 Vict. No. 10	An Act to amend an Act intituled "An Act to consolidate and amend the laws for the transportation and punishment of Offenders in New South Wales; and for defining the respective powers and authorities of General Quarter Sessions and of Petty Sessions, and for determining the places at which the same shall be holden; and for better regulating the summary jurisdiction of Justices of the Peace, and for repealing certain laws and ordinances relating thereto.	Repealed by Statute of Gaols 1864.
4 Vict. No. 11	An Act for increasing the Duties on Spirits, Wine, and other Goods and Merchandise imported into the colony of New South Wales and its dependencies.	See 6 Vict. No. 1 and 11 Vict. No. 26; repealed by 16 Vict. No. 2; see also 17 Vict. No. 6.

Date of Act.	Title of Act.	History of Act.
4 Vict. No. 12	An Act to provide for the making and repairing of Parish Roads in the colony of New South Wales.	Extended by 14 Vict. No. 5; repealed by 16 Vict. No. 40.
4 Vict. No. 13	An Act to provide for the periodical publication of the Liabilities and Assets of Banks in New South Wales and its dependencies, and the registration of the names of the Proprietors thereof.	Amended by 5 Vict. No. 24; repealed and re-enacted by Banks and Currency Statute 1864.
4 Vict. No. 14	An Act to remove doubts as to the validity of certain Marriages had and solemnized within the colony of New South Wales by Ministers of the Congregational, or Independent, and Baptist Denominations; and to regulate the registration of certain Marriages, Births or Baptisms, and Burials.	Repealed by 22 Vict. No. 70.
4 Vict. No. 15	An Act to render valid certain acts already performed or hereafter to be performed by one trustee and the accountant of the Savings Bank of New South Wales.	Partly repealed by 11 Vict. No. 40, and entirely repealed by 16 Vict. No. 37.
4 Vict. No. 16	An Act to increase the Duty on Spirits distilled in New South Wales and its dependencies.	Repealed by 5 Vict. No. 16.
4 Vict. No. 17	An Act for the further and better regulation and government of Seamen within the colony of New South Wales and its dependencies, and for establishing a Water Police.	Amended by 7 Vict. No. 21 and 13 Vict. No. 30; repealed by 16 Vict. No. 33; but extent of repeal limited by s. 9.
4 Vict. No. 18	An Act to amend an Act intituled "An Act to regulate the temporal affairs of Presbyterian Churches and Chapels connected with the Church of Scotland in the colony of New South Wales."	See 17 Vict. No. 19; unrepealed.
4 Vict. No. 22	An Act to provide for the more effectual Administration of Justice in New South Wales and its dependencies.	Amended by 5 Vict. No. 9; as to s. 26 see 10 Vict. No. 10 s. 15; as to ss. 20, 21, see 11 Vict. No. 22; doubts removed, &c., by 11 Vict. No. 27; repealed by 15 Vict. No. 10.
4 Vict. No. 23	An Act to ensure the fulfilments of engagements, and to provide for the adjustment of disputes between Masters and Servants in New South Wales and its dependencies.	Repealed by 9 Vict. No. 27.
4 Vict. No. 24	An Act to revive and continue for a limited time an Act passed in the second year of the reign of Her present Majesty for the relief of Debtors in execution for Debts which they are unable to pay, and to make certain amendments therein.	Repealed by 5 Vict. No. 17 s. 108.
4 Vict. No. 25	An Act to amend an Act intituled "An Act for better regulating Courts of Requests in New South Wales."	Repealed by 6 Vict. No. 15, and by 10 Vict. No. 10.
4 Vict. No. 27	An Act for enabling persons prosecuted for Felony to make their defence by counsel or attorney.	As to s. 2 see 11 and 12 Vict. c. 43 s. 12; as to s. 3 see 11 and 12 Vict. c. 42 s. 27 and 14 Vict. No. 43; the remainder repealed by Criminal Law and Practice Statute 1864; and re-enacted, part in s. 364 thereof, and part in s. 98 of the Justices of Peace Statute 1865.
4 Vict. No. 28	An Act to provide for the Trial by Jury in civil and criminal cases in the circuit and other courts, to be holden within the colony of New South Wales and its dependencies.	Continued and amended by 5 Vict. No. 4, 6 Vict. No. 17, 7 Vict. No. 29, 8 Vict. No. 4, 9 Vict. No. 32, 11 Vict. No. 20; repealed by 21 Vict. No. 19.

Date of Act.	Title of Act.	History of Act.
4 Vict. No. 29	An Act for the regulation of Gaols, Prisons, and Houses of Correction in the colony of New South Wales and its dependencies, and for other purposes relating thereto.	Repealed by 16 Vict. No. 32.
5 Vict. No. 1	An Act to amend and continue for five years an Act intituled "An Act further to restrain the unauthorized occupation of Crown Lands, and to provide the means of defraying the expense of a Border Police."	Expired.
5 Vict. No. 2	An Act to amend an Act intituled "An Act to authorize the establishment of Markets in certain towns in the colony of New South Wales, and for the appointment of commissioners to manage the same."	Repealed and re-enacted by Markets Statute 1864.
5 Vict. No. 3	An Act to repeal so much of an Act intituled "An Act to abolish the transportation of Female Convicts, and to provide for the more effectual punishment of Female Offenders within the colony of New South Wales" as authorizes the confinement of any female offender in a dark cell.	Repealed by the Statute of Gaols 1864.
5 Vict. No. 4	An Act to make further provision for the trial of cases in the circuit courts of New South Wales, and to amend, in certain respects, the Act providing for Trial by Jury in such courts.	See *ante*, 4 Vict. No. 28, and *post*, 7 Vict. No. 29; repealed by 15 Vict. No. 10.
5 Vict. No. 5.	An Act to amend and to extend to Port Phillip an Act intituled "An Act to consolidate and amend the laws relating to the Savings Bank of New South Wales."	Partly repealed by 7 Vict. No. 6; amended by 9 Vict. No. 25 and 15 Vict. No. 11; repealed by 16 Vict. No. 37.
5 Vict. No. 6	An Act to prohibit Shooting for sport, pleasure, or profit on Sundays.	Repealed by Police Offences Statute 1864.
5 Vict. No. 8	An Act to authorize the Governor of New South Wales to detain at hard labor any male offender under a second sentence or order of transportation.	Continued by 6 Vict. No. 14 and 7 Vict. No. 22.
5 Vict. No. 9	An Act for the further amendment of the Law and for the better advancement of Justice.	As to s. 20 see 10 Vict. No. 10 s. 15; as to s. 22 see 11 Vict. No. 13 s. 6; section 23 repealed by 8 Vict. No. 17; as to ss. 12 and 13 see 11 Vict. No. 22; ss. 1–14 inclusive and 31 repealed by 15 Vict. No. 10; ss. 18, 19, 20, 32, and part of 31 repealed by 12 Vict. No. 1; s. 21 amended by 19 Vict. No. 4 s. 4; ss. 15, 16, 25, 42 repealed by 21 Vict. No. 8; ss. 33–37 inclusive repealed by Insolvency Statute 1865, and re-enacted in Part XIII. thereof; s. 43 partially repealed by Equity Practice Statute 1865, and re-enacted in s. 7 thereof; the remainder repealed by Common Law Procedure Statute 1865.
5 Vict. No. 12	An Act to amend an Act intituled "An Act for subjecting vessels coming to New South Wales from certain places to the performance of Quarantine."	Repealed by Public Health Statute 1865.

Date of Act.	Title of Act.	History of Act.
5 Vict. No. 14	An Act for rendering a notarial copy of an Exemplification of the Charter of the Bank of Australasia evidence in all Courts of Law, Equity, Admiralty and Vice-Admiralty, and in all courts of inferior jurisdiction in the colony of New South Wales.	Unrepealed.
5 Vict. No. 15	An Act to amend an Act intituled "An Act to amend an Act intituled 'An Act to provide for the Conveyance and Postage of Letters.'"	Amended by 11 Vict. No. 47; repealed by 13 Vict. No. 38, and again by 15 Vict. No. 9.
5 Vict. No. 16	An Act to amend the laws regulating the Distillation of Spirits in the colony of New South Wales, and the levying of duties thereon.	Further amended by 7 Vict. No. 8 and 9 Vict. No. 26; repealed by 13 Vict. No. 27.
5 Vict. No. 17	An Act for giving relief to Insolvent Persons and providing for the due collection, administration, and distribution of Insolvent Estates within the colony of New South Wales, and for the prevention of frauds affecting the same.	Amended by 7 Vict. No. 19, 8 Vict. Nos. 6 and 15, 10 Vict. No. 14; repealed and (as amended) re-enacted by Insolvency Statute 1865.
5 Vict. No. 18	An Act further to amend an Act intituled "An Act for the better preservation of the Ports, Harbors, Havens, Roadsteads, Channels, Navigable Creeks and Rivers in New South Wales, and the better regulation of Shipping in the same.	Disallowed; but see 6 Vict. No. 10.
5 Vict. No. 19	An Act to repeal so much of an Act intituled "An Act for preventing the mischiefs arising from the printing and publishing newspapers, and papers of a like nature, by persons not known, and for regulating the printing and publication of such papers in other respects; and also for restraining the abuses arising from the publication of blasphemous and seditious libels," as relates to the sentence of banishment on a second conviction, and further to amend the same.	See 13 Vict. No. 47; repealed by Printers and Newspapers Registration Statute 1864.
5 Vict. No. 20	An Act to facilitate proceedings by and against the proprietors of a certain Joint Stock Company lately carrying on business at Melbourne, in the district of Port Phillip, in the colony of New South Wales, under the name, style, or firm of the "Melbourne Auction Company;" and for other purposes therein mentioned.	Operation exhausted.
5 Vict. No. 21	An Act to amend the Act for the registration of Deeds, and to provide for the establishment of a separate Registry for Sydney and Port Phillip respectively.	Repealed, except as regards Port Phillip, by 7 Vict. No. 16; amended by 14 Vict. No. 10; ss. 1–4 inclusive partially repealed by 24 Vict. No. 112 s. 90; the Act repealed by Real Property Statute 1864.
5 Vict. No. 22	An Act to further continue for a limited time an Act intituled "An Act for preventing the extension of the disease commonly called the Influenza or Catarrh in Sheep and Lambs in the colony of New South Wales."	See *ante*, 2 Vict. No. 12.
5 Vict. No. 23	An Act to further continue for a limited time an Act intituled "An Act to facilitate the apprehension of transported Felons and Offenders illegally at large and of persons found with arms and suspected to be Robbers."	See *ante*, 5 Wm. IV. No. 9.
5 Vict. No. 24	An Act to amend an Act intituled "An Act to provide for the periodical publication of Liabilities and Assets of Banks in New South Wales and its dependencies, and the registration of the names of the Proprietors thereof."	Repealed and re-enacted by Banks and Currency Statute 1864.

Date of Act.	Title of Act.	History of Act.
5 Vict. No. 25	An Act to further continue for a limited time an Act intituled "An Act for regulating the Constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales."	See *ante*, 2 Wm. IV. No. 3.
6 Vict. No. 2	An Act for further facilitating proceedings by and against all banking and other companies in the colony entitled to sue and be sued in the name of their chairman, secretary, or other officer.	Declared not to apply to Union Bank of Australasia by 21 Vict. No. 51; repealed by Companies Statute 1864.
6 Vict. No. 7	An Act to incorporate the Inhabitants of the Town of Melbourne.	Extended to Geelong by 13 Vict. No. 40 s. 5; section 70 suspended for one year by 8 Vict. No. 11, 9 Vict. No. 17, 10 Vict. No. 5, 11 Vict. No. 6, 11 Vict. No. 51, 13 Vict. No 23, 14 Vict. No. 21, and 15 Vict. No. 2; sections 63, 64, and part of 62, repealed by Justices of Peace Statute 1865, and see Part I. thereof; amended and explained by 6 Vict. No. 18, 8 Vict. No. 12, 9 Vict. No. 19, 11 Vict. No. 17, 16 Vict. Nos. 18, 19, 38, and 39; 17 Vict. No. 3, 18 Vict. No. 2, 27 Vict. No. 178; see also 13 Vict. No. 14, and the Acts 199 and 263; partly repealed by 17 Vict. No. 13, 17 Vict. No. 23, and by 29 Vict. No. 289; remainder unrepealed.
6 Vict. No. 8	An Act to appropriate for a limited time from the general revenue of New South Wales certain sums in aid of the Melbourne Police and the Town Fund, to be raised by the Corporation of Melbourne.	Operation exhausted.
6 Vict. No. 10	An Act to amend an Act intituled "An Act for the better preservation of the Ports, Harbors, Havens, Roadsteads, Channels, Navigable Creeks and Rivers, in New South Wales, and the better regulation of Shipping in the same.	Amended by 7 Vict. No. 12 9 Vict. No. 18, 13 Vict. No. 30; repealed by 16 Vict. No. 12.
6 Vict. No. 11	An Act to amend Schedule C of an Act intituled "An Act for appointing and empowering Commissioners to examine and report upon Claims to Grants of Land under the great seal of the colony of New South Wales."	See *ante*, 5 Wm. IV. No. 21.
6 Vict. No. 13	An Act for directing the application of all Fines imposed for Drunkenness.	See 11 Vict. No. 29; repealed by 13 Vict. No. 29.
6 Vict. No. 14	An Act to continue for a limited time an Act passed in the fifth year of Her Majesty's reign intituled "An Act to authorize the Governor of New South Wales to detain at hard labor any male offender under a second sentence or order of transportation."	See *ante*, 5 Vict. No. 8.
6 Vict. No. 15	An Act to consolidate and amend the law relating to Courts of Requests, and to extend the jurisdiction of such courts in the county of Cumberland.	Repealed by 10 Vict. No. 10, but operation of repeal restricted by 11 Vict. No. 35; section 11 repealed by 12 Vict. No. 1, and the Act by 16 Vict. No. 11.

Date of Act.	Title of Act.	History of Act.
6 Vict. No. 16	An Act to provide for the division of the colony of New South Wales into Electoral Districts, and for the Election of Members to serve in the Legislative Council.	Repealed by 14 Vict. No. 48.
6 Vict. No. 17	An Act to amend an Act passed in the fourth year of Her Majesty's reign intituled "An Act to provide for the Trial by Jury in civil and criminal cases in the circuit and other courts to be holden within the colony of New South Wales and its dependencies."	See *ante*, 4 Vict. No. 28.
6 Vict. No. 18	An Act to remove Doubts in respect to the exercise of certain powers by the Councils of the city of Sydney and town of Melbourne, and to declare the competency of witnesses and the jurisdiction of magistrates in certain cases within the same.	Extended to Geelong by 14 Vict. No. 12; partially repealed by 7 Vict. No. 17; ss. 2, 3, 4, and part of s. 1, repealed by Justices of the Peace Statute 1865.
7 Vict. No. 2	An Act to amend an Act for regulating the Slaughtering of Cattle.	See 18 Vict. No. 18; repealed and partly re-enacted by Licensed Butchers and Abattoirs Statute 1864, Part I.
7 Vict. No. 3	An Act to give a preferable Lien on Wool from season to season, and to make mortgages on sheep, cattle, and horses valid without delivery to the mortgagee.	Repealed by 9 Vict. No. 30, but repealing Act disallowed, 11 Vict. No. 4.
7 Vict. No. 4	An Act to prevent the waste of the Property of Debtors under process of law.	Operation exhausted.
7 Vict. No. 5	An Act to provide for the summary discharge in certain cases of persons under committal for Felony and Misdemeanor.	Repealed and s. 1 re-enacted by Criminal Law and Practice Statute 1864.
7 Vict. No. 6	An Act to amend the laws relating to the Savings Bank of New South Wales and Port Phillip respectively.	Amended by 9 Vict. Nos. 25 and 33; repealed by 16 Vict. No. 37.
7 Vict. No. 7	An Act to amend an Act intituled "An Act for consolidating and amending the laws relating to licensing of Public Houses, and for further regulating the sale and consumption of Fermented and Spirituous Liquors in New South Wales."	See *ante*, 2 Vict. No. 18.
7 Vict. No. 8	An Act to explain and amend the laws relating to Distillers and Rectifiers in the colony of New South Wales.	Amended by 9 Vict. No. 26; repealed by 13 Vict. No. 27.
7 Vict. No. 9	An Act to provide for the maintenance of Lighthouses at Port Macquarie, Newcastle, and Port Phillip, in the colony of New South Wales.	See *post*, 7 Vict. No. 12; repealed by 16 Vict. No. 12.
7 Vict. No. 10	An Act to regulate Friendly Societies in the colony of New South Wales.	Amended by 11 Vict. No. 53; repealed by 18 Vict. No. 41.
7 Vict. No. 12	An Act further to amend an Act intituled "An Act for the better preservation of the Ports, Harbors, Havens, Roadsteads, Channels, Navigable Creeks and Rivers in New South Wales, and the better regulation of Shipping in the same."	Amended by 8 Vict. No. 16, 10 Vict. No. 16, and 11 Vict. No. 15; partly repealed by 9 Vict. No. 13, and 15 Vict. No. 5; repealed by 16 Vict. No. 12.
7 Vict. No. 13	An Act for regulating the appointment and duties of Sheriff in New South Wales.	Repealed by 15 Vict. No. 10.
7 Vict. No. 14	An Act to make provision for the safe custody of, and prevention of offences by, Persons dangerously Insane; and for the care and maintenance of Persons of Unsound Mind.	Amended by 9 Vict. Nos. 4 and 34, 13 Vict. No. 3; certain provisions extended to Superintendent and resident judge of Port Phillip by 13 Vict. No. 3; s. 4 repealed by Criminal Law and Practice Statute 1864, and re-enacted in effect by s. 358 thereof; repealed by Lunacy Statute 1867, 31 Vict. No. 309.

Date of Act.	Title of Act.	History of Act.
7 Vict. No. 16	An Act to consolidate and amend the laws relating to the registration of Deeds and other instruments in that part of the colony of New South Wales not comprehending the district of Port Phillip.	Amended by 13 Vict. No 45; general provisions not applicable to that part of New South Wales comprehended within the limits of the district of Port Phillip.
7 Vict. No. 17	An Act to alter and amend the law respecting the competency of the jurisdiction of magistrates in certain cases within the city of Sydney and town of Melbourne respectively.	Extended to Geelong by 14 Vict. No. 12; repealed by Justices of Peace Statute 1865.
7 Vict. No. 19	An Act to amend an Act intituled "An Act for giving relief to Insolvent Persons and providing for the administration of Insolvent Estates," and to abolish Imprisonment for Debt.	Sections 26–30 inclusive repealed by 10 Vict. No. 7; operation restricted by 8 Vict. No. 15; amended by 8 Vict. No. 6 and 10 Vict. No. 14; repealed by Insolvency Statute 1865.
7 Vict. No. 21	An Act to amend an Act intituled "An Act for the further and better regulation and government of Seamen within the colony of New South Wales and its dependencies, and for establishing a Water Police," and further to amend the law relating to the government of Seamen in the Merchant Service.	Section 17 repealed by 13 Vict. No. 28; the whole repealed by 16 Vict. No. 33.
7 Vict. No. 22	An Act to continue an Act intituled "An Act to authorize the Governor of New South Wales to detain at hard labor any male offender under a second sentence or order of transportation."	See *ante*, 5 Vict. No. 8.
7 Vict. No. 25	An Act to indemnify and render valid the acts of certain Justices of the Peace for the territory of New South Wales, and to enable territorial Justices of the Peace to act as such, under certain limitations, within the boundaries of the city of Sydney and town of Melbourne respectively.	Extended to Geelong by 14 Vict. No. 12; repealed by Justices of Peace Statute 1865.
7 Vict. No. 26	An Act to amend an Act intituled "An Act for consolidating and amending the laws relating to the licensing of Public Houses, and for further regulating the sale and consumption of Fermented and Spirituous Liquors in New South Wales."	See *ante*, 2 Vict. No. 18.
7 Vict. No. 27	An Act to amend an Act intituled "An Act to consolidate and amend the laws for the Distillation of Spirits in the colony of New South Wales, and for the issue of licenses for distilling, rectifying, and compounding spirits therein, and for repealing certain laws relating thereto," and to indemnify certain justices of the said colony.	See *ante*, 3 Vict. No. 9.
7 Vict. No. 28	An Act to authorize the issue of Wine duty free to Military Officers serving in the colony of New South Wales.	Repealed by 16 Vict. No. 2.
7 Vict. No. 29	An Act to further amend and continue for a limited time an Act intituled "An Act for regulating the Constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales."	See *ante*, 2 Wm. IV. No. 3.
8 Vict. No. 1	An Act for improving the law of Evidence.	Repealed by 21 Vict. No. 8.
8 Vict. No. 2	An Act to regulate and amend the law of Orphan and other Apprentices in the colony of New South Wales.	Repealed and re-enacted by Master and Apprentice Statute 1864.
8 Vict. No. 3	An Act to continue for a further limited time an Act intituled "An Act for preventing the extension of the disease commonly called the Influenza or Catarrh in Sheep and Lambs in the colony of New South Wales."	See *ante*, 2 Vict. No. 12.

Date of Act.	Title of Act.	History of Act.
8 Vict. No. 4	An Act to amend the laws regulating Trial by Jury in New South Wales in so far as they relate to the trial of civil causes.	See *ante*, 4 Vict. No. 28; repealed by 11 Vict. No. 20.
8 Vict. No. 5	An Act to further continue for a limited time an Act intituled "An Act to facilitate the apprehension of transported Felons and Offenders illegally at large and of persons found with arms and suspected to be Robbers."	See *ante*, 5 Wm. IV. No. 9.
8 Vict. No. 6	An Act to further amend an Act intituled "An Act for giving relief to Insolvent Persons and providing for the administration of Insolvent Estates, and to abolish Imprisonment for Debt."	Repealed by Insolvency Statute 1865.
8 Vict. No. 8	An Act to amend the Act passed in the second year of the reign of Her present Majesty Queen Victoria intituled "An Act to define the qualifications of Medical Witnesses at Coroners' Inquests and Inquiries held before Justices of the Peace in the colony of New South Wales."	See 17 Vict. No. 14; repealed by Medical Practitioners Statute 1865.
8 Vict. No. 10	An Act to amend an Act intituled "An Act to consolidate and amend the laws for the Distillation of Spirits in the colony of New South Wales, and for the issue of licenses for distilling, rectifying, and compounding spirits therein, and for repealing certain laws relating thereto."	See *ante*, 3 Vict. No. 9.
8 Vict. No. 11	An Act to suspend for a limited period so much of an Act of the Governor and Council of New South Wales "to incorporate the Inhabitants of the town of Melbourne" as relates to the estimating and levying a Rate for the Police of the said town.	Operation exhausted; suspension continued annually until 15 Vict. No. 2.
8 Vict. No. 12	An Act to amend an Act passed in the sixth year of the reign of Her present Majesty intituled "An Act to incorporate the Inhabitants of the town of Melbourne."	See *ante*, 6 Vict. No. 7; extended to Geelong by 13 Vict. No 40; partly repealed by 10 Vict. No. 17, 11 Vict. No. 17, 16 Vict. No. 18, 17 Vict. No. 13, 17 Vict. No. 23; part of s. 14 repealed by 27 Vict. No. 178 s. 41; part of the Act repealed by 29 Vict. No. 289.
8 Vict. No. 15	An Act to amend the Act passed in the fifth year of Her Majesty's reign for the relief of Insolvent Debtors, and also the Act lately passed for amending the same and abolishing Imprisonment for Debt.	Sections 3 and 4 repealed by 10 Vict. No. 7; amended by 10 Vict. No. 14; the Act repealed by Insolvency Statute 1865.
8 Vict. No. 16	An Act to make further provision for payment of Wharfage Rates, and to amend the laws for the regulation of Shipping in certain cases.	Amended by 10 Vict. No. 11 and 11 Vict. No. 15; repealed by 16 Vict. No. 12.
8 Vict. No. 17	An Act to regulate the Rate of Interest on money.	Operation exhausted.
9 Vict. No. 1	An Act for adopting an Act of the Imperial Parliament intituled "An Act for consolidating and amending the laws against Offences relating to the Coin."	Repealed by Criminal Law and Practice Statute 1864.
9 Vict. No. 2	An Act to adopt an Act for more effectually preventing Embezzlement by persons employed in the public service of Her Majesty in the colony of New South Wales.	Repealed by Criminal Law and Practice Statute 1864.
9 Vict. No. 3	An Act to adopt an Act of the Imperial Parliament intituled "An Act to abolish the punishment of Death in cases of Forgery."	Repealed by Criminal Law and Practice Statute 1864.

Date of Act.	Title of Act.	History of Act.
9 Vict. No. 4	An Act to alter and amend an Act intituled "An Act to make provision for the safe custody of, and prevention of Offences by, Persons dangerously Insane; and for the care and maintenance of Persons of Unsound Mind."	Amended and certain provisions extended to the Superintendent and resident judge of Port Phillip by 13 Vict. No. 3; repealed by Lunacy Statute 1867, 31 Vict. No. 309.
9 Vict. No. 7	An Act to amend an Act intituled "An Act to repeal an Act of the Governor and Council of New South Wales intituled "An Act to authorize the erection of Pounds, and for regulating the Impounding of Cattle, and to make further and other provisions in lieu thereof.'"	Repealed by 18 Vict. No. 30.
9 Vict. No. 9	An Act for the more effectual abolition of Oaths and Affirmations taken and made in various departments of the Government of New South Wales, and to substitute Declarations in lieu thereof, and for the suppression of voluntary and extra-judicial Oaths and Affidavits.	Repealed by Statute of Evidence 1864, and re-enacted in Part IV. thereof.
9 Vict. No. 10	An Act to prevent the travelling of Sheep or Lambs infected with Scab on public roads and thoroughfares, and for other purposes.	Repealed by 10 Vict. No. 8.
9 Vict. No. 11	An Act to adopt certain provisions of an Act of the Imperial Parliament intituled "An Act for taking away the punishment of Death in certain cases, and substituting other punishments in lieu thereof."	Repealed by Criminal Law and Practice Statute 1864.
9 Vict. No. 12	An Act to amend an Act to define the qualifications of Medical Witnesses at Coroners' Inquests and Inquiries held before Justices of the Peace in the colony of New South Wales.	Repealed and re-enacted in effect by Medical Practitioners Statute 1865.
9 Vict. No. 13	An Act to amend an Act intituled "An Act for the better preservation of the Ports, Harbors, Havens, Roadsteads, Channels, Navigable Creeks and Rivers in New South Wales, and the better regulation of Shipping in the same.	Repealed by 16 Vict. No. 12.
9 Vict. No. 14	An Act to punish summarily the Stealing of Dead Wood.	Repealed and partly re-enacted by Criminal Law and Practice Statute 1864, Part II., division 4.
9 Vict. No. 15	An Act to provide for the general regulation of the Customs in New South Wales.	Partly repealed and amended by 10 Vict. No. 9; amended by 11 Vict. No. 43 and 13 Vict. No. 43; repealed by 16 Vict. No. 23.
9 Vict. No. 17	An Act to suspend for a further limited period so much of an Act of the Governor and Council of New South Wales, "To incorporate the Inhabitants of the town of Melbourne," as relates to the estimating and levying a Rate for the Police of the said town.	Operation exhausted.
9 Vict. No. 19	An Act to authorize the transfer of the surplus Police Revenue of the Corporation of Melbourne to the credit of the Town Fund.	Operation exhausted.
9 Vict. No. 20	An Act to reduce for a limited time the Duties on Spirits imported into or distilled in the colony of New South Wales.	Operation exhausted; see 11 Vict. No. 7.
9 Vict. No. 21	An Act for taking an account of the Population of New South Wales.	Operation exhausted.
9 Vict. No. 22	An Act to provide for the summary jurisdiction of cases under an Act intituled "An Act for preventing the extension of the disease commonly called the Influenza or Catarrh in Sheep and Lambs in the colony of New South Wales," and to indemnify certain justices of the said colony.	Repealed by 10 Vict. No. 8.
9 Vict. No. 23	An Act to exempt from duty for a limited time Metallic Ores imported into New South Wales.	Made permanent by 11 Vict. No. 5.

Date of Act.	Title of Act.	History of Act.
9 Vict. No. 25	An Act to amend the laws relating to the Savings Banks of New South Wales and Port Phillip respectively, and to make further provision for the investment of the funds thereof.	Repealed by 16 Vict. No. 37.
9 Vict. No. 26	An Act to amend the Acts now in force respecting the Distillation of Spirits, and more effectually to prevent illicit distillation.	Amended by 10 Vict. No. 13; continued by 11 Vict. No. 12; repealed by 13 Vict. No. 27.
9 Vict. No. 27	An Act to amend and consolidate the laws between Masters and Servants in New South Wales.	Amended and continued by 11 Vict. No. 9, 14 Vict. No. 25, 16 Vict. No. 6; re-enacted by 18 Vict. No. 16; continued by 21 Vict. No. 16; made permanent by 22 Vict. No. 68; repealed and partly re-enacted by Masters and Servants Statute 1864.
9 Vict. No. 28	An Act to give to valid Mortgages of Sheep, Cattle, and Horses respectively, priority for a limited period according to the date of the registration thereof, and for other purposes therein mentioned.	See 11 Vict. No. 58.
9 Vict. No. 31	An Act to continue for two years "An Act to facilitate the apprehension of transported Felons and Offenders illegally at large and of persons found with arms and suspected to be Robbers.	See *ante*, 5 Wm. IV. No. 9.
9 Vict. No. 32	An Act to continue for a limited time an Act intituled "An Act for regulating the Constitution of Juries and for the Trial of Issues in certain cases in the Supreme Court of New South Wales," and further to amend the law relating to Trial by Jury.	See *ante*, 2 Wm. IV. No. 3.
9 Vict. No. 33.	An Act to amend an Act intituled "An Act to amend the laws relating to the Savings Bank of New South Wales and Port Phillip respectively."	Repealed by 16 Vict. No. 37.
9 Vict. No. 34	An Act to amend an Act intituled "An Act to make provision for the safe custody of, and prevention of Offences by, Persons dangerously Insane, and for the care and maintenance of Persons of Unsound Mind."	See *ante*, 9 Vict. No. 4; repealed by Lunacy Statute 1867, 31 Vict. No. 309.
10. Vict. No. 1	An Act to prevent for a limited time Party Processions and certain other public exhibitions in the colony of New South Wales.	Continued by 13 Vict. No. 10, 19 Vict. No. 1 and 21 Vict. No. 16; made permanent by 22 Vict. No. 68; repealed and re-enacted by Unlawful Assemblies and Party Processions Statute 1865.
10 Vict. No. 3	An Act to prevent the Desertion of Seamen belonging to Foreign Ships and Vessels.	Repealed by Foreign Seaman's Act 1854 (18 Vict. No. 6).
10 Vict. No. 5	An Act to suspend for one year so much of an Act to incorporate the Inhabitants of the town of Melbourne as relates to the estimating and levying a Rate for the Police of the said town.	Expired.
10 Vict. No. 6	An Act to extend the provisions of an Act of Parliament, passed in the seventh year of the reign of His late Majesty King George the Fourth, as to taking Bail in cases of Felony or Misdemeanor.	Repealed by Justices of Peace Statute 1865.
10 Vict. No. 7	An Act to simplify the law abolishing Imprisonment for Debt.	Repealed by Common Law Procedure Statute 1865, and re-enacted in Part II., division 23 thereof.

Date of Act.	Title of Act.	History of Act.
10 Vict. No. 8	An Act to consolidate and amend the laws now in force for preventing the extension of the diseases called the Scab and the Influenza or Catarrh in Sheep and Lambs in the colony of New South Wales.	Repealed, as to Scab, by 16 Vict. No. 21; remainder repealed by Diseases of Animals Prevention Statute 1864, and partly re-enacted in Part I. thereof.
10 Vict. No. 9	An Act to amend the law relating to the general regulation of the Customs in New South Wales.	Repealed by 16 Vict. No. 23.
10 Vict. No. 10	An Act to amend the law respecting the recovery of small Debts in all parts of the colony.	Doubts removed by 11 Vict. No. 35; ss. 2 and 3 repealed by 16 Vict. No. 11; ss. 12 and 13 repealed by 12 Vict. No. 1; and again, as also s. 14, by the Common Law Practice Act 1856; the whole repealed by 21 Vict. No. 29.
10 Vict. No. 11	An Act to amend the law relating to Public and Private Sufferance Wharves, and the rates payable thereat.	Amended by 14 Vict. No. 15; repealed by 16 Vict. No. 12.
10 Vict. No. 13	An Act to authorize and regulate for a limited time the Warehousing under Bond and the Exportation, free of duty, of Spirits distilled within the colony of New South Wales.	Continued by 11 Vict. No. 42; repealed by 13 Vict. No. 27.
10 Vict. No. 14	An Act to remove difficulties in the disposal, administration, and distribution of Insolvent Estates.	Repealed and re-enacted by Insolvency Statute 1865.
11 Vict. No. 2	An act to facilitate the recovery of possession of Tenements after due determination of the tenancy.	Repealed by Landlord and Tenant Statute 1864 and re-enacted in Part V. thereof.
11 Vict. No. 3	An Act for the regulation of Steam Navigation and for requiring seagoing vessels to carry boats.	Extended by 14 Vict. No. 32; repealed by 16 Vict. No 25.
11 Vict. No. 4	An Act to repeal an Act intituled "An Act to give a preferable Lien on Wool from season to season, and to make mortgages of sheep, cattle, and horses valid without delivery to the mortgagee;" and to substitute for a limited time other provisions in lieu thereof.	Doubts removed by 11 Vict. No. 58; continued by 14 Vict. No. 24 and 17 Vict. No. 16.
11 Vict. No. 5	An Act to make permanent the Act to exempt from duty Metallic Ores imported into New South Wales.	Repealed by 16 Vict. No. 2.
11 Vict. No. 6	An Act to suspend for one year so much of an Act to declare the town of Sydney to be a city and to incorporate the Inhabitants thereof, and so much of an Act to incorporate the town of Melbourne as relates to the estimating and levying a Rate for the Police of the said city and town respectively.	Operation exhausted.
11 Vict. No. 7	An Act to define the Duties chargeable on Spirits.	Repealed by 16 Vict. No. 2; see also 22 Vict. No. 63.
11 Vict. No. 9	An Act to amend an Act intituled "An Act to amend and consolidate the laws between Masters and Servants in New South Wales."	Continued by same Acts as 9 Vict. No. 27; repealed and partly re-enacted by Masters and Servants Statute 1864.
11 Vict. No. 10	An Act for the regulation of Benefit Building Societies.	Repealed by Friendly Societies Act 1855 (18 Vict. No. 41); see also 21 Vict. No. 53.

Date of Act.	Title of Act.	History of Act.
11 Vict. No. 12	An Act to continue for a limited time the Act to amend the Acts now in force respecting the Distillation of Spirits, and more effectually to prevent illicit distillation.	Repealed by 13 Vict. No. 27.
11 Vict. No. 13	An Act to amend the law respecting Defamatory Words and Libel.	Repealed by 19 Vict. No. 4.
11 Vict. No. 14	An Act to provide for the payment of dues towards the maintenance of Lighthouses at Gabo Island and Cape Otway respectively.	Repealed by 16 Vict. No. 12.
11 Vict. No. 15	An Act to amend the laws for the payment of Pilotage on Shipping, and to secure the payment of Harbor and other Dues on Shipping.	Repealed by 16 Vict. No. 12.
11 Vict. No. 16	An Act to regulate the licensing of Auctioneers, and the collection of duties on property sold by them.	See 13 Vict. No. 13, and the limitation by 14 Vict. No. 34; amended by 16 Vict. No. 27; repealed by 18 Vict. No. 23.
11 Vict. No. 17	An Act to explain and amend the laws relating to the Corporation of the town of Melbourne.	Extended to Geelong by 13 Vict. No. 40 s. 5; sections 11, 12, 13 repealed by 21 Vict. No. 11; amended by 27 Vict. No. 178; unrepealed.
11 Vict. No. 18	An Act to authorize for a limited time an Assessment upon Stock pastured beyond the settled districts of New South Wales.	Expired.
11 Vict. No. 19	An Act for facilitating the winding-up of Joint Stock Companies unable to meet their pecuniary engagements.	Repealed by Companies Statute 1864.
11 Vict. No. 20	An Act to consolidate and amend the laws relative to Jurors and Juries in New South Wales.	Amended by 16 Vict. No. 15; ss. 21 and 30 repealed by 19 Vict. No. 19 s. 135; repealed by 21 Vict. No. 19.
11 Vict. No. 23	An Act for the protection of Seamen entering on board Merchant Ships.	Amended by 13 Vict. No. 28; repealed by Seamen Statute 1865.
11 Vict. No. 24	An Act for the better preservation and management of the Estates of Deceased Persons in certain cases.	See 15 Vict. No. 10 s. 15 and 24 Vict. No. 99.
11 Vict. No. 25	An Act further to amend the laws relating to the Saving Banks of New South Wales and Port Phillip respectively, and to empower the trustees of the Savings Bank of New South Wales to erect premises wherein to carry on the business of that institution.	Partly repealed by 11 Vict No. 40, and entirely repealed by 16 Vict. No. 37.
11 Vict. No. 26	An Act to indemnify the Officers of Customs in respect of certain duties omitted to be charged.	Operation exhausted.
11 Vict. No. 28	An Act to facilitate the Granting of Leases.	Repealed by Landlord and Tenant Statute 1864, and re-enacted in Part I. thereof.
11 Vict. No. 29	An Act to amend an Act intituled "An Act for the more effectual Appropriation of Fines and Penalties in certain cases in the colony of New South Wales."	Repealed by 21 Vict. No. 17.
11 Vict. No. 30	An Act for the better punishment of Indecent Assaults upon Female Children.	Repealed by Criminal Law and Practice Statute 1864, and partly re-enacted in Part I., division 6 thereof.

Date of Act.	Title of Act.	History of Act.
11 Vict. No. 31	An Act to enable trustees of commons in New South Wales to have perpetual succession, and to empower them to regulate the use of such lands as may be granted as commons within the said colony; and for other purposes relating thereto.	Repealed by the Land Act 1862.
11 Vict. No. 32	An Act for compensating the Families of Persons killed by Accidents.	Repealed and re-enacted by Statute of Wrongs 1865.
11 Vict. No. 33	An Act to regulate the taxation of Attorneys' Bills of Costs and the Practice of Conveyancing.	Section 14 repealed by 27 Vict. No. 223 s. 23; the remainder except s. 13 repealed by Common Law Procedure Statute 1865, and re-enacted in Part II., division 27 thereof. This repeal is modified by 29 Vict. No. 290 s. 3.
11 Vict. No. 34	An Act to substitute other punishments for transportation beyond the seas.	Amended by 11 Vict. No. 55; sections 5 and 6 repealed and re-enacted by the Statute of Gaols 1864; the remainder repealed by Criminal Law and Practice Statute 1864, and partly re-enacted in Part IX. thereof.
11 Vict. No. 35	An Act to amend the laws relating to Courts of Requests in the city of Sydney and county of Cumberland, and in the town of Melbourne and county of Bourke respectively.	Repealed by 16 Vict. No. 11.
11 Vict. No. 38	An Act to facilitate the proof of Letters Patent or Deeds of Grant from the Crown.	Repealed by 21 Vict. No. 8.
11 Vict. No. 39	An Act to amend the laws relating to Aliens within the colony of New South Wales.	Repealed by 26 Vict. No. 166.
11 Vict. No. 40	An Act to alter and amend the laws relating to the Savings Banks of New South Wales and Port Phillip respectively.	Repealed by 16 Vict. No. 37.
11 Vict. No. 41	An Act to enable the Governor of the colony to cancel appointments of places for holding Courts of Petty Sessions.	Repealed by Justices of Peace Statute 1865.
11 Vict. No. 42	An Act to continue an Act intituled "An Act to authorize and regulate for a limited time the Warehousing under Bond and the Exportation, free of duty, of Spirits distilled within the colony of New South Wales."	Repealed by 13 Vict. No. 27.
11 Vict. No. 43	An Act to amend certain Acts of the Governor and Legislative Council of New South Wales with respect to the appropriation of Fines and Penalties.	Repealed by 16 Vict. No. 23.
11 Vict. No. 44	An Act to amend the "Act for regulating the Police in the towns of Parramatta, Windsor, Maitland, Bathurst, and other town respectively, and for removing and preventing nuisances and obstructions, and for the better alignment of streets therein."	Partially repealed by 14 Vict. No. 38 and 16 Vict. No. 24 s. 33; repealed by Town and Country Police Act 1854 (18 Vict. No. 14).
11 Vict. No. 45	An Act further to continue for a limited time "An Act to facilitate the apprehension of transported Felons and Offenders illegally at large and of persons found with arms and suspected to be Robbers."	See *ante*, 5 Wm. IV. No. 9.
11 Vict. No. 46	An Act to prevent frivolous and vexatious Arrests of Ships and Vessels, or the Masters or Commanders thereof, by process issuing out of the Vice-Admiralty Court of New South Wales.	Repealed and re-enacted by Seamen Statute 1865.

Date of Act.	Title of Act.	History of Act.
11 Vict. No. 47	An Act to amend the law of Postage of Letters to and from the neighboring colonies of Van Diemen's Land, South Australia, and Western Australia.	Repealed by 13 Vict. No. 38; and again by 15 Vict. No. 9.
11 Vict. No. 48	An Act to incorporate the Board of Commissioners for National Education.	Repealed by 15 Vict. No. 7.
11 Vict. No. 50	An Act to regulate the keeping and carriage of Gunpowder imported into that part of the colony of New South Wales called Port Phillip.	Repealed by 21 Vict. No. 21.
11 Vict. No. 51	An Act to suspend for one year so much of the Acts to incorporate the cities of Sydney and Melbourne respectively as relates to the estimating and levying a Rate for the Police of the same.	Expired.
11 Vict. No. 53	An Act to amend the Act regulating Friendly Societies in New South Wales.	See *ante*, 7 Vict. No. 10.
11 Vict. No. 55	An Act to substitute in respect of Female Offenders other punishments in lieu of transportation beyond seas.	Repealed by Criminal Law and Practice Statute 1864, and partly re-enacted in Part IX. thereof.
11 Vict. No. 56	An Act to enable any Joint Stock Company to sue any of its own members, and to enable any member of any such Joint Stock Company to sue any such Company; and for other purposes.	Repealed by Companies Statute 1864.
11 Vict. No. 57	An Act to regulate the admission, in certain cases, of Barristers of the Supreme Court of New South Wales.	Repealed in effect by 15 Vict. No. 10 s. 32.
11 Vict. No. 58	An Act to declare the power of Mortgagors of Sheep.	See *ante*, 11 Vict. No. 4.
11 Vict. No. 59	An Act to enable certain Public Hospitals to sue and be sued in the name of their treasurer; and to provide for the taking and holding of Real Property belonging to such hospitals respectively.	Amended by 13 Vict. No. 20 and 24 Vict. No. 116; unrepealed.
11 Vict. No. 61	An Act for appointing Commissioners to examine and report upon disputes respecting boundaries of runs between the Claimants of Leases under Her Majesty's Order in Council of the ninth March One thousand eight hundred and forty-seven.	Repealed by the Land Act 1862.
11 Vict.	An Act to amend an Act for facilitating proceedings by and against a certain Banking Company called the "Union Bank of Australia;" and for other purposes therein mentioned.	See *ante*, 3 Vict.; unrepealed.
12 Vict. No. 1	An Act to simplify and alter the law in some respects.	Section 7 repealed by 17 Vict. No. 11; repealed by the Common Law Practice Act 1856.
13 Vict. No. 2	An Act for the better protection of Works of Art and Scientific and Literary Collections.	Repealed by Criminal Law and Practice Statute 1864, and partly re-enacted in Part III. thereof.
13 Vict. No. 3	An Act to amend the law in respect to the safe custody of Persons dangerously Insane; and the care and maintenance of Persons of Unsound Mind.	Repealed by Lunacy Statute 1867, 31 Vict. No. 309.
13 Vict. No. 4	An Act to continue for a further limited time an Act intituled "An Act to regulate for a limited time the exportation of Gunpowder and warlike stores from the colony of New South Wales."	Operation exhausted.
13 Vict. No. 5	An Act for punishing criminally Drivers of Stage Coaches and Carriages for accidents occasioned by their wilful misconduct.	Repealed and re-enacted by 27 Vict. No. 217.

Date of Act.	Title of Act.	History of Act.
13 Vict. No. 6	An Act to punish False Declarations by Members of the Legislative Council; and to give certain select committees thereof power to examine and compel the attendance of witnesses.	Repealed by implication by the Constitution Act.
13 Vict. No. 7	An Act for the removal of defects in the Administration of Criminal Justice.	Section 7 repealed by 16 Vict. No. 3; the remainder repealed by Criminal Law and Practice Statute 1864, and re-enacted in Parts VII. and X. thereof.
13 Vict. No. 8	An Act to provide for the reservation and decision of points of law in criminal cases.	Repealed by 16 Vict. No. 7.
13 Vict. No. 10	An Act to continue an Act intituled "An Act to prevent for a limited time Party Processions and certain other public exhibitions in the colony of New South Wales."	Operation exhausted. Continued or revived by 21 Vict. No. 16, and made permanent by 22 Vict. No. 68; repealed by Unlawful Assemblies and Party Processions Statute 1865.
13 Vict. No. 11	An Act to allow the importation of Borax and Saltpetre free of duty.	Repealed by 16 Vict. No. 2.
13 Vict. No. 12	An Act to prevent the escape from the colony of Fraudulent Debtors.	Repealed by Common Law Procedure Statute 1865.
13 Vict. No. 13	An Act to enable Bailiffs of the Courts of Requests and of Petty Sessions respectively to sell by auction without a license.	Repealed by 18 Vict. No. 23.
13 Vict. No. 14	An Act to effect the change in the style and title of the Corporation of Melbourne rendered necessary by the erection of the town of Melbourne into a city.	Unrepealed; see 16 Vict. No. 18.
13 Vict. No. 15	An Act to re-appoint the Honorable Francis Scott to be the Agent for the colony of New South Wales for one year.	Operation exhausted.
13 Vict. No. 16	An Act to amend the law of Evidence and to facilitate the admission, as evidence, of certain official and other documents; and to give protection to persons employed in the printing and publication of papers by the order or authority of the Legislative Council, or a committee thereof.	Sections 1 to 5 repealed by 21 Vict. No. 8; remainder unrepealed.
13 Vict. No. 18	An Act to abolish Deodands.	Sections 1 and 3 repealed by Criminal Law and Practice Statute 1864 and re-enacted in Part X. thereof; s. 2 repealed and re-enacted by Coroners' Statute 1865 s. 6.
13 Vict. No. 19	An Act to authorize the Investment of Trust Money.	Repealed by Statute of Trusts 1864 and re-enacted in s. 102 thereof.
13 Vict. No. 20	An Act to amend an Act intituled "An Act to enable certain Public Hospitals to sue and be sued in the name of their treasurer, and to provide for the taking and holding of real property belonging to such hospitals respectively."	Amended by 24 Vict. No. 116; unrepealed.
13 Vict. No. 21	An Act to provide for the care and education of Infants who may be convicted of felony or misdemeanor.	Repealed by Neglected and Criminal Children Act 1864.
13 Vict. No. 22	An Act for the more effectual prevention of Frauds and Abuses committed by persons employed in the manufacture of various articles of trade.	Repealed by Criminal Law and Practice Statute 1864, and partly re-enacted in Part II. thereof.

Date of Act.	Title of Act.	History of Act.
13 Vict. No. 23	An Act to suspend for one year so much of the Acts to incorporate the cities of Sydney and Melbourne respectively as relates to the estimating and levying a Rate for the Police of the same.	Expired.
13 Vict. No. 25	An Act for adopting certain Standard Weights and Measures.	Repealed by 25 Vict. No. 151.
13 Vict. No. 26	An Act to prevent unlawful Distillation, and to provide for the protection of the Revenue arising from the Duties on Spirits.	Amended by 17 Vict. No. 24 and 20 Vict. No. 4; repealed by 25 Vict. No. 147.
13 Vict. No. 27	An Act to consolidate and amend the laws relating to the Distillation, Rectifying, and Compounding of Spirits, and to authorize and regulate the warehousing under bond and the exportation, free of duty, of Spirits distilled within the colony of New South Wales; and to repeal certain laws relating thereto.	Amended by 14 Vict. No. 22; repealed by 25 Vict. No. 247.
13 Vict. No. 28	An Act to amend and consolidate the laws relating to Seamen in the Merchant Service of the colony of New South Wales, and for keeping a Register of Seamen belonging to ships registered in the said colony.	Repealed by Seamen Statute 1865.
13 Vict. No. 29	An Act to consolidate and amend the laws relating to the licensing of Public Houses and to regulate the sale of Fermented and Spirituous Liquors in New South Wales.	Amended by 15 Vict. No. 14, 16 Vict. No. 35, 17 Vict. No. 24, 20 Vict. No. 4, 21 Vict. No. 9, and 25 Vict. No. 154; part of s. 48 repealed by 27 Vict. No. 186; as to s. 86 see 21 Vict. No. 17; the Act repealed by Wines, Beer, and Spirits Sale Statute 1864.
13 Vict. No. 31	An Act to effectuate the service of process issuing from the Supreme Court in its Equitable Jurisdiction.	Repealed and re-enacted by Equity Practice Statute 1865.
13 Vict. No. 32	An Act to authorize the imposition of Fines on members of the Police Force throughout the colony of New South Wales, and to establish a fund to be called the "Police Reward Fund."	Repealed by 14 Vict. No. 38 and 16 Vict. No. 24 s. 34.
13 Vict. No. 35	An Act further to amend the law relating to Quarantine in New South Wales.	Repealed by Public Health Statute 1865.
13 Vict. No. 36	An Act to repeal the laws relating to Hawkers and Pedlers in the colony of New South Wales and to substitute other provisions in lieu thereof.	Repealed by Hawkers and Pedlers Statute 1865; re-enacted with alterations by Hawkers and Pedlers Statute 1865 (No. 2).
13 Vict. No. 37	An Act for regulating the trade or business of Pawnbrokers in New South Wales.	Amended by 25 Vict. No. 130; repealed and re-enacted by Pawnbrokers Statute 1865.
13 Vict. No. 38	An Act to establish an uniform rate of Postage and to consolidate and amend the law for the Conveyance and Postage of Letters.	Repealed by 15 Vict. No. 9.
13 Vict. No. 39	An Act for regulating Buildings and Party Walls and for preventing mischiefs by fire in the city of Melbourne.	Unrepealed.
13 Vict. No. 40	An Act to incorporate the Inhabitants of the town of Geelong and to extend and apply thereto the laws now in force for the regulation of the Corporation of Melbourne.	Amended by 21 Vict. No. 54. See 16 Vict. No. 18; partly repealed by 17 Vict. No. 23 and 28 Vict. No. 267; repealed as to water supply and water rates by Public Works Statute 1865; remainder unrepealed.

Date of Act.	Title of Act.	History of Act.
13 Vict. No. 43	An Act to amend an Act passed in the ninth year of the reign of Her present Majesty intituled "An Act to provide for the general regulation of the Customs in New South Wales."	Repealed by 16 Vict. No 23.
13 Vict. No. 44	An Act to provide for the payment of Claims on the late Registrar of the Supreme Court in respect of Intestate Estates.	See *ante*, 11 Vict. No. 24.
13 Vict. No. 45	An Act to abolish the office of Registrar-General, and to make further provision for the registration of Deeds and other instruments.	Not applicable to Victoria. See *ante*, 7 Vict. No. 16.
13 Vict. No. 47	An Act to transfer certain duties with respect to the printing and publishing of books and newspapers from the office of the Colonial Secretary to that of the Supreme Court.	Repealed by Printers and Newspapers Registration Statute 1864.
14 Vict. No. 1	An Act to prevent the Forgery in New South Wales of Stamps of the United Kingdom.	Repealed by Criminal Law and Practice Statute 1864, and re-enacted in Parts IV. and X. thereof.
14 Vict. No. 2	An Act for the more speedy trial and punishment of Juvenile Offenders.	Amended by 17 Vict. No. 2; repealed by Criminal Law and Practice Statute 1864, and re-enacted as so amended in Part II. thereof.
14 Vict. No. 3	An Act to enable the Council of the city of Melbourne to make Bye-laws for the licensing and regulating Hackney Carriages within the city of Melbourne and its vicinity, and for regulating the conduct of the Owners and Drivers thereof.	Extended to Geelong by 27 Vict. No. 178 s. 57; repealed and re-enacted by 27 Vict. No. 217.
14 Vict. No. 4	An Act to prevent the adulteration of Malt Liquors.	Repealed by 25 Vict. No. 147.
14 Vict. No. 5	An Act to authorize the leasing of Tolls and Dues demandable at turnpike gates and ferries, and on parish roads, for extended terms.	Repealed by 16 Vict. No. 40.
14 Vict. No. 6	An Act to prevent Frauds by Carriers and Drovers.	Repealed by 22 Vict. No. 78 s. 25.
14 Vict. No. 7	An Act for the better apprehension of Offenders who shall have escaped to parts within the territory of New South Wales from any other of the Australian colonies.	Repealed by Justices of Peace Statute 1865.
14 Vict. No. 8	An Act to regulate the amount of Import Duty to be paid upon Perfumed Spirits.	Repealed by 16 Vict. No. 2.
14 Vict. No. 9	An Act to amend the law concerning Games and Wagers.	Part of section 9 repealed by Common Law Procedure Statute 1865 and the remainder by Equity Practice Statute 1865; the remainder of the Act repealed by Police Offences Statute 1864, and re-enacted in Police Offences Statute 1865, Part IV.
14 Vict. No. 10	An Act to amend an Act intituled "An Act to amend the Act for the registration of Deeds, and to provide for the establishment of a separate Registry Office for Sydney and Port Phillip respectively."	Sections 1 and 2 partially repealed by 24 Vict. No. 112 s. 90; the whole repealed by Real Property Statute 1864.
14 Vict. No. 11	An Act for the encouragement of persons desirous of providing for their support in old age, and for the protection, under certain restrictions, of their Annuities and Subscriptions for Deferred Annuities.	Repealed by Friendly Society's Statute 1865.

Date of Act.	Title of Act.	History of Act.
14 Vict. No. 12	An Act to extend to the town of Geelong, and all such other towns as may from time to time be incorporated, the provisions of certain Acts relating to the jurisdiction of the peace within the respective cities of Sydney and Melbourne, and to certain other matters therein mentioned.	Repealed by Justices of Peace Statute 1865.
14 Vict. No. 13	An Act for legalizing Art Unions.	Repealed by Police Offences Statute 1864.
14 Vict. No. 14	An Act for the better protection of Cattle in New South Wales.	Repealed by 16 Vict. No. 20.
14 Vict. No. 15	An Act to amend the law relating to Public Wharfs.	Repealed by 16 Vict. No. 12.
14 Vict. No. 16	An Act to adopt and apply certain Acts of Parliament in the administration of Justice in New South Wales.	Repealed by Criminal Law and Practice Statute 1864.
14 Vict. No. 17	An Act to provide for the establishment of Public Abattoirs in the city of Melbourne, and for preventing certain nuisances therein.	Amended by 18 Vict. No. 18; repealed and re-enacted by Licensed Butchers and Abattoirs Statute 1864.
14 Vict. No. 18	An Act for taking an account of the Population of New South Wales.	Operation exhausted.
14 Vict. No. 19	An Act for the establishment and regulation by trustees of a general Cemetery near the city of Melbourne.	Amended by 17 Vict. No. 12; repealed and re-enacted by 27 Vict. No. 201.
14 Vict. No. 20	An Act for regulating the formation, drainage, and repair of streets, courts, and alleys, on private property within the city of Melbourne.	Explained and extended by 27 Vict. No. 178 ss. 65, 66; unrepealed.
14 Vict. No. 21	An Act to suspend for one year so much of the Acts to incorporate the Inhabitants of the cities of Sydney and Melbourne and the town of Geelong respectively as relates to the estimating and levying a Rate for the Police of the same.	Expired.
14 Vict. No. 22	An Act to amend the law with respect to the Distillation and Exportation of Spirits distilled in the colony of New South Wales.	Repealed by 25 Vict. No. 147.
14 Vict. No. 23	An Act to amend the law for regulating Places of Public Exhibition and Entertainment.	Repealed and re-enacted by Licensed Theatres Statute 1865.
14 Vict. No. 24	An Act to continue for three years from the 31st day of December next, and from thence until the end of the next session of the Legislative Council, an Act intituled "An Act to give a preferable Lien on Wool, from season to season, and to make mortgages of sheep, cattle and horses valid without delivery to the mortgagee, and to substitute for a limited time other provisions in lieu thereof."	Inoperative for error; but see 17 Vict. No. 16 s. 11.
14 Vict. No. 25	An Act to continue two Acts passed in the ninth and eleventh years of the reign of Her present Majesty repectively intituled "An Act to amend and consolidate the laws between Masters and Servants in New South Wales," and "An Act to amend an Act intituled 'An Act to amend and consolidate the laws between Masters and Servants in New South Wales.'"	See *ante*, 9 Vict. No. 27.
14 Vict. No. 27	An Act to amend the law of Dower in certain respects.	Repealed by Real Property Statute 1864 and re-enacted in ss. 65 and 66 thereof.

Date of Act.	Title of Act.	History of Act.
14 Vict. No. 28	An Act for the confirmation of certain Marriages in the colony of New South Wales.	Repealed by 22 Vict. No. 70.
14 Vict. No. 32	An Act to extend the provisions of an Act passed in the eleventh year of the reign of Her present Majesty intituled "An Act for the regulation of Steam Navigation and for requiring seagoing vessels to carry boats," to all steam vessels.	Repealed by 16 Vict. No. 25.
14 Vict. No. 33	An Act for the sewerage, cleansing, and draining the city of Sydney, and to promote the health of the Inhabitants thereof.	Applied to Melbourne by 16 Vict. No. 39 s. 8, which see.
14 Vict. No. 35	An Act for regulating the formation, drainage, and repair of streets, courts, and alleys on private property within the town of Geelong.	Explained and extended by 27 Vict. No. 178 ss. 65, 66; unrepealed.
14 Vict. No. 37	An Act for regulating payments to be made to Pilots on account of the detention of outward-bound ships or vessels.	Repealed by 16 Vict. No. 12.
14 Vict. No. 38	An Act for the regulation of the Police Force in New South Wales.	See 15 Vict. No. 12; repealed by 16 Vict. No. 24.
14 Vict. No. 40	An Act for the more effectual prevention of Cruelty to Animals.	Repealed by Police Offences Statute 1864; and partly re-enacted by Police Offences Statute 1865, Part II. thereof.
14 Vict. No. 42	An Act declatory of the right of Occupants of Crown Lands to impound cattle and other animals found trespassing thereon.	Amended by 16 Vict. No. 10; repealed by 18 Vict. No. 30.
14 Vict. No. 43	An Act to adopt and apply certain Acts of Parliament passed for facilitating the performance of the duties of Justices of the Peace, and for protecting them from vexatious actions, and to prevent persons convicted of offences from taking undue advantage of mere defects or errors in form.	Sections 7, 9, 10, 11, 12, 13, and 14, repealed by 25 Vict. No. 159; the Act repealed by Justices of Peace Statute 1865.
14 Vict. No. 45	An Act to preserve the jurisdiction and authority of Public Officers and Magistrates within the colony of Victoria until new commissions shall have issued.	Repealed by Justices of the Peace Statute 1865.
14 Vict. No. 47	An Act to provide for the division of the colony of Victoria into Electoral Districts and for the Election of Members to serve in the Legislative Council.	Section 53 repealed by 18 Vict. No. 34; and the Act repealed by 19 Vict. No. 12.
14 Vict. No. 49	An Act to provide that the Revenue and other laws and regulations made in and for the colony of New South Wales shall, after the erection of the district of Port Phillip into the separate colony of Victoria, continue in force within the last mentioned colony until altered by the Legislature thereof.	Unrepealed.
14 Vict.	An Act to incorporate the proprietors of a certain Banking Company, called the Bank of New South Wales, and for other purposes therein mentioned.	Amended by 16 Vict. and by 18 Vict.; s. 14 repealed by 18 Vict; remainder unrepealed.

PART II.—ACTS OF THE LEGISLATURE OF VICTORIA.

Date of Act.	Title of Act.	History of Act.
15 Vict. No. 1	An Act to interpret and shorten the language of Acts of Council.	Repealed by 21 Vict. No. 22.
15 Vict. No. 2	An Act to suspend for one year so much of the Acts to incorporate the Inhabitants of the city of Melbourne and the town of Geelong respectively as relates to the estimating and levying a Rate for the Police of the same.	Expired.
15 Vict. No. 3	An Act to regulate for a limited time the exportation of Gunpowder and munitions of war from the colony of Victoria.	Expired.
15 Vict. No. 4	An Act to regulate Distress and proceedings therein.	Repealed by Landlord and Tenant Statute 1864, and re-enacted in Part IV. thereof.
15 Vict. No. 5	An Act to alter an Act intituled "An Act further to amend an Act intituled 'An Act for the better preservation of the Ports, Harbors, Havens, Roadsteads, Channels, Navigable Creeks and Rivers in New South Wales, and the better regulation of Shipping in the same;'" and to provide for the rate of Pilotage in the several Harbors in the colony of Victoria.	Repealed by 16 Vict. No. 12.
15 Vict. No. 6	An Act to abolish the taking of Fees for their own use by officers in the Public Service in the colony of Victoria.	Unrepealed.
15 Vict. No. 7	An Act to incorporate the Board of Commissioners for National Education.	Repealed by 25 Vict. No. 149.
15 Vict. No. 8	An Act for applying certain sums arising from the revenue receivable in the colony of Victoria to the service thereof for the year One thousand eight hundred and fifty-two, and for further appropriating the said revenue	Operation exhausted.
15 Vict. No. 9	An Act to amend the law for the Conveyance and Postage of Letters.	Repealed by 17 Vict. No. 30.
15 Vict. No. 10	An Act to make provision for the better Administration of Justice in the colony of Victoria.	Sections 10 to 13 and 17 and 18 repealed by 38 Vict. No. 502; ss. 21, 22, 23 repealed by 19 Vict. No. 13; s. 24 repealed by 38 Vict. No. 502; ss. 25 and 28 repealed by Common Law Practice Act 1856 ss. 176 and 264; s. 31 repealed by Criminal Law and Practice Statute 1864, and re-enacted as to criminal proceedings in s. 330 thereof; the remainder unrepealed.
15 Vict. No. 11	An Act to further amend the laws relating to the Savings Bank of Port Phillip and to empower the vice-president and the trustees thereof to lend money by way of mortgage to the corporations of the city of Melbourne and town of Geelong respectively.	Repealed by 16 Vict. No. 37.
15 Vict. No. 12	An Act to restrain the practice of Gambling and the use of Obscene Language.	Repealed by 16 Vict. No. 22.

Date of Act.	Title of Act.	History of Act.
15 Vict. No. 13	An Act to enable the Lieutenant-Governor of the colony of Victoria to appoint a Chairman of and also a Crown Prosecutor at General and Quarter Sessions.	Repealed by 16 Vict. No. 3.
15 Vict. No. 14	An Act to amend for a limited time an Act intituled "An Act to consolidate and amend the laws relating to the licensing of Public Houses and to regulate the sale of Fermented and Spirituous Liquors in New South Wales."	Repealed by 16 Vict. No. 35.
15 Vict. No. 15	An Act to restrain by summary proceeding unauthorized Mining on Waste Lands of the Crown.	Amended by 17 Vict. No. 1; repealed by 17 Vict. No. 4.
16 Vict. No. 1	An Act to confirm the adoption and use of a seal as the Seal of the colony of Victoria, and to indemnify all persons acting by authority of the same.	Unrepealed.
16 Vict. No. 2	An Act for granting Duties of Customs in the colony of Victoria.	Repealed by 17 Vict. No. 6.
16 Vict. No. 3	An Act to make provision for the better Administration of Justice in Courts of General Sessions in the colony of Victoria.	Repealed by Justices of Peace Statute 1865, and re-enacted in Parts II., VII., and VIII. thereof.
16 Vict. No. 4	An Act to enable Immigration Boards to make certain Inquiries relating to Immigrant Ships.	Repealed by Immigration Statute 1864.
16 Vict. No. 5	An Act to enable the Supreme Court of Victoria to compel Taxation of Attorneys' Bills of Costs in criminal cases in the Supreme Court of Victoria.	Repealed by Criminal Law and Practice Statute 1864, and re-enacted in Part X. division 17 thereof.
16 Vict. No. 6	An Act to amend and continue two Acts passed in the ninth and eleventh years of the reign of Her present Majesty respectively intituled "An Act to amend and consolidate the laws between Masters and Servants in New South Wales," and "An Act to amend an Act intituled 'An Act to amend and consolidate the laws between Masters and Servants in New South Wales.'"	See *ante*, 9 Vict. No. 27; repealed and re-enacted by Masters and Servants Statute 1864.
16 Vict. No. 7	An Act for improving the Administration of Criminal Justice.	Section 27 repealed by Coroners Statute 1865, and re-enacted in s. 10 thereof; the remainder repealed by Criminal Law and Practice Statute 1864, and re-enacted in Part X. thereof.
16 Vict. No. 8	An Act to make further provision for the care and maintenance of Persons of Unsound Mind.	Repealed by Lunacy Statute 1867.
16 Vict. No. 9	An Act to amend the law of Evidence.	Repealed by 21 Vict. No. 8.
16 Vict. No. 10	An Act to amend an Act intituled "An Act declaratory of the right of Occupants of Crown Lands to impound cattle and other animals found trespassing thereon.	Repealed by 18 Vict. No. 30.
16 Vict. No. 11	An Act to make provision for the better Administration of Justice in county courts in the colony of Victoria.	Amended and extended by 17 Vict. No. 21; repealed by 21 Vict. No. 29.
16 Vict. No. 12	An Act to consolidate and amend the law relating to Ports, Harbors, and Shipping in the colony of Victoria.	Sections 11, 12, 14, 15, and Schedule A repealed by 17 Vict. No. 28; the remainder repealed and re-enacted in part by Passengers, Harbors, and Navigation Statute 1865.

Date of Act.	Title of Act.	History of Act.
16 Vict. No. 13	An Act to facilitate the apprehension and prevent the introduction into the colony of Victoria of Offenders illegally at large.	Expired. See 18 Vict. No. 3.
16 Vict. No. 14	An Act for the better prevention of Offences.	Section 6 amended by 21 Vict. No. 17; ss. 6, 7, 8, repealed by 21 Vict. No. 29; the remainder repealed and re-enacted in part by Criminal Law and Practice Statute 1864.
16 Vict. No. 15	An Act to alter the laws relative to Jurors and Juries in certain districts.	Repealed by 21 Vict. No. 19.
16 Vict. No. 16	An Act to amend the laws relating to Special Constables.	Repealed and re-enacted by Unlawful Assemblies and Party Processions Statute 1865.
16 Vict. No. 17	An Act to regulate the Conveyance of Passengers to the colony of Victoria.	Incorrectly included in schedule to 21 Vict. No. 16: Error corrected by 21 Vict. No. 39; repealed by 18 Vict. No. 5.
16 Vict. No. 18	An Act to amend "The Melbourne Corporation Act" in the matter of the qualification of citizenship.	Unrepealed.
16 Vict. No. 19	An Act to authorize the Corporation of the city of Melbourne to damask and destroy their Common Seal and to adopt another seal in lieu thereof.	Unrepealed.
16 Vict. No. 20	An Act for the better protection of Cattle, and the better prevention of Cattle Stealing.	Sections 4, 5, 6, 7, 13 repealed by Criminal Law and Practice Statute 1864, and re-enacted therein as follows:—Part of s. 4 in s. 76, s. 5 in s. 73, s. 6 in s. 304, part of s. 7 in s. 74, and remainder of s. 7 in s. 374; the remainder repealed by Police Offences Statute 1865, and partly re-enacted in ss. 19 and 20 thereof.
16 Vict. No. 21	An Act for preventing the extension of the disease called Scab in Sheep.	Repealed by 18 Vict. No. 38.
16 Vict. No. 22	An Act for the better prevention of Vagrancy and other offences.	Section 20 amended by 21 Vict. No. 17; repealed by Police Offences Statute 1864, and re-enacted in Police Offences Statute 1865, Part III.
16 Vict. No. 23	An Act for the general regulation of the Customs in the colony of Victoria.	Amended by 17 Vict No. 17, and by 18 Vict. No. 29; repealed by 21 Vict. No. 13.
16 Vict. No. 24	An Act for the regulation of the Police Force.	Amended, and ss. 21–25 repealed by 17 Vict. No. 25; the remainder repealed and re-enacted by 28 Vict. No. 257.
16 Vict. No. 25	An Act to consolidate and amend the laws relating to Steam Navigation and to the boats and lights to be carried and the signals to be made by sea-going vessels.	Repealed and re-enacted by Passengers, Harbors, and Navigation Statute 1865.

Date of Act.	Title of Act.	History of Act.
16 Vict. No. 26	An Act for registering Births, Deaths, and Marriages in the colony of Victoria.	Section 29 repealed by Criminal Law and Practice Statute 1864, and see s. 240 thereof; the remainder repealed and re-enacted by Registration of Births Deaths and Marriages Statute 1864.
16 Vict. No. 27	An Act to amend an Act intituled "An Act to regulate the licensing of Auctioneers and the collection of duties on property sold by auction."	Repealed by 18 Vict. No. 23.
16 Vict. No. 28	An Act more effectually to promote the erection of Buildings for Public Worship and to provide for the maintenance of Ministers of Religion in the colony of Victoria.	Repealed partially by 19 Vict. No. 6; remainder repealed and re-enacted in part by Religious Trusts Statute 1865.
16 Vict. No. 29	An Act to alter "The Victoria Electoral Act of 1851" and to increase the number of Members of the Legislative Council of the colony of Victoria.	Amended by 18 Vict. No. 34; repealed by 19 Vict. No. 12.
16 Vict. No. 30	An Act for applying certain sums arising from the revenue receivable in the colony of Victoria to the service thereof for the year One thousand eight hundred and fifty-three, and for further appropriating the said revenue.	Operation exhausted.
16 Vict. No. 31	An Act to enable the Sheriff of the colony of Victoria to appoint deputies.	Unrepealed.
16 Vict. No. 32	An Act to make provision for the better control and disposal of Offenders.	Amended and section 10 repealed by 17 Vict. No. 26; s. 3 repealed by Criminal Law and Practice Statute 1864, and re-enacted in Part IX., s. 291 thereof; the remainder repealed and re-enacted by Statute of Gaols 1864.
16 Vict. No. 33	An Act to abolish certain Dues on Shipping and to amend the law relating to Seamen and Water Police.	Repealed and re-enacted by Seamen Statute 1865.
16 Vict. No. 34	An Act to incorporate and endow the University of Melbourne.	Unrepealed.
16 Vict. No. 35	An Act to make provision for the sale of Fermented and Spirituous Liquors and of Refreshments in certain districts.	Amended by 21 Vict. No. 9; amended and continued by 17 Vict. No. 24, 18 Vict. Nos. 17, and 33, and by 21 Vict. No. 16; amended by 25 Vict. No. 154; repealed and re-enacted by Wines, Beer, and Spirits Sale Statute 1864.
16 Vict. No. 36	An Act to amend an Act intituled "An Act for regulating the Police in the towns of Parramatta, Windsor, Maitland, Bathurst, and other towns respectively, and for removing and preventing nuisances and obstructions, and for the better alignment of streets therein."	Repealed by 18 Vict. No. 14.
16 Vict. No. 37	An Act to consolidate and amend the laws relating to Savings Banks.	Repealed and re-enacted by Savings Banks Statute 1865.
16 Vict. No. 38	An Act to amend in certain respects an Act intituled "An Act to incorporate the Inhabitants of the town of Melbourne," and to make further provision for the cleansing and improvement of the city of Melbourne.	Extended to Geelong by 27 Vict. No. 178 s. 57; unrepealed.

Date of Act.	Title of Act.	History of Act.
16 Vict. No. 39	An Act to establish a Board of Commissioners for the better sewerage and drainage of the city of Melbourne, and for supplying Water thereto and to the suburbs thereof.	See 18 Vict. No. 26 and 18 Vict. No. 40; amended by 21 Vict. No. 59; repealed by Public Works Statute 1865.
16 Vict. No. 40	An Act for making and improving Roads in the colony of Victoria.	Amended by 17 Vict. No. 29 and by 21 Vict. Nos. 31 and 52; repealed, so far as relates to s. 123 of Lands Clauses Consolidation Act, by 21 Vict. No. 52, and so far as relates to road districts and district road boards, by 27 Vict. No. 176; the remainder repealed by Public Works Statute 1865 and re-enacted in Part II. thereof.
16 Vict. No. 41	An Act to alter and increase the sum appropriated to the payment of the Salary of the Governor of the colony of Victoria.	Repealed by 18 Vict. No. 43.
16 Vict.	An Act to incorporate a company to be called the Geelong and Melbourne Railway Company.	Amended by 18 Vict.; repealed partially by 27 Vict. No. 186; the remainder repealed by Public Works Statute 1865.
16 Vict.	An Act to incorporate a company to be called the Melbourne and Hobson's Bay Railway Company.	Amended by 19 Vict. and by 21 Vict. No. 18; s. 38 repealed by 28 Vict. No. 271; see 28 Vict. No. 270; unrepealed.
16 Vict.	An Act to incorporate a company to be called the Melbourne, Mount Alexander, and Murray River Railway Company.	See 19 Vict. No. 15; repealed partially by 27 Vict. No. 186. The remainder repealed by Public Works Statute 1865.
16 Vict.	An Act for lighting with gas the city of Melboune, in the colony of Victoria, and to enable certain persons associated under the name, style, or title of "The City of Melbourne Gas and Coke Company" to sue and be sued in the name of the secretary for the time being of the said company, and for other purposes therein mentioned.	Amended by 18 Vict. and by 21 Vict. No. 14; unrepealed.
16 Vict.	An Act to amend an Act intituled "An Act to incorporate the Proprietors of a certain Banking Company called the Bank of New South Wales, and for other purposes therein mentioned.	Repealed by the Bank of New South Wales Act 1855.
17 Vict. No. 1	An Act to alter an Act intituled "An Act to restrain by summary proceedings unauthorized Mining on Waste Lands of the Crown.	Repealed by 17 Vict. No. 4.
17 Vict. No. 2	An Act for the further extension of summary jurisdiction in cases of Larceny.	Section 4 repealed by 25 Vict. No. 159; the remainder repealed by Criminal Law and Practice Statute 1864, and re-enacted in Part II. thereof.
17 Vict. No. 3	An Act to regulate the tenure of office by the aldermen of additional wards in the city of Melbourne.	Repealed by 27 Vict. No. 178 s. 27.
17 Vict. No. 4	An Act for the better management of the Gold Fields in the colony of Victoria.	Repealed by 18 Vict. No. 37.
17 Vict. No. 5	An Act to legalize Partnerships with limited liability.	Repealed by Companies Statute 1864.

Date of Act.	Title of Act.	History of Act.
17 Vict. No. 6	An Act for granting Duties of Customs in the colony of Victoria.	Repealed by 18 Vict. No. 9.
17 Vict. No. 7	An Act for applying certain sums arising from the revenue receivable in the colony of Victoria to the service thereof for the year One thousand eight hundred and fifty-four, and for further appropriating the said revenue.	Operation exhausted.
17 Vict. No. 8	An Act to restrain the Careless Use of Fire.	Amended by 19 Vict. No. 9; repealed by 21 Vict. No. 55.
17 Vict. No. 9	An Act for taking an account of the Population of the colony of Victoria.	Operation exhausted.
17 Vict. No. 10	An Act to repeal certain clauses of "An Act to regulate the making and sale of bread, and to prevent the adulteration thereof and of meal and flour," and to make other provisions instead thereof.	Repealed and re-enacted by Bakers and Millers Statute 1865.
17 Vict. No. 11	An Act to amend further the law of Evidence.	Repealed by 21 Vict. No. 8.
17 Vict. No. 12	An Act for the establishment and management of Cemeteries in the colony of Victoria.	Repealed and re-enacted by 27 Vict. No. 201.
17 Vict. No. 13	An Act to enable the Mayor, Aldermen, Councillors, and Citizens of the city of Melbourne to raise a sum or sums of money not exceeding Five hundred thousand pounds in the whole, and for further amending the Acts relating to the Corporation thereof.	Amended by 18 Vict. No. 21; unrepealed.
17 Vict. No. 14	An Act to extend the provisions of the Acts relating to legally qualified Medical Practitioners.	Amended by 24 Vict. No. 118; repealed by Medical Practitioners Statute 1865.
17 Vict. No. 15	An Act to regulate Grants of Patents for Inventions in the colony of Victoria.	Repealed by 20 Vict. No. 3.
17 Vict. No. 16	An Act to give a preferable Lien on Wool from season to season, and to make mortgages of stock valid without delivery.	Continued by 21 Vict. No. 16, and error in the schedule to that Act corrected by 21 Vict. No. 39; rendered permanent by 22 Vict. No. 68; repealed by Instruments and Securities Statute 1864, and re-enacted in Part VIII. thereof.
17 Vict. No. 17	An Act to amend an Act intituled "An Act for the general regulation of the Customs in the colony of Victoria."	Incorrectly included in schedule to 21 Vict. No. 16, and error corrected by 21 Vict. No. 39; repealed by 21 Vict. No. 13.
17 Vict. No. 18	An Act to authorize a Tonnage Duty on Shipping	Repealed by Passengers, Harbors, and Navigation Statute 1865.
17 Vict. No. 19	An Act to regulate the temporal affairs of the Synod of Victoria, and to amend the law relating thereto.	Amended by 22 Vict. No. 82; unrepealed.
17 Vict. No. 20	An Act to authorize for a limited period an Assessment on Stock.	Expired; re-enacted by 19 Vict. No. 5; continued by 21 Vict. No. 16; repealed by 21 Vict. No. 47.
17 Vict. No. 21	An Act to amend and extend an Act intituled "An Act to make provision for the better Administration of Justice in county courts in the colony of Victoria."	Repealed by 21 Vict. No. 29.

Date of Act.	Title of Act.	History of Act.
17 Vict. No. 22	An Act for Electric Telegraphs.	Section 9 repealed by Criminal Law and Practice Statute 1864, and see s. 190 thereof; the remainder repealed by Public Works Statute 1865, and re-enacted in Part VI. thereof.
17 Vict. No. 23	An Act to enable the Mayor, Aldermen, Councillors, and Burgesses of the town of Geelong to raise a sum or sums of money not exceeding Two hundred thousand pounds in the whole, and for further amending the Acts relating to the Corporation thereof.	Amended by 18 Vict. No. 22; unrepealed.
17 Vict. No. 24	An Act to amend an Act intituled "An Act to consolidate and amend the laws relating to the licensing of Public Houses, and to regulate the sale of Fermented and Spirituous Liquors in New South Wales," and also an Act intituled "An Act to make provision for the sale of Fermented and Spirituous Liquors and Refreshments in certain districts" and to impose a fee on the registration of names of spirit merchants.	Continued by 21 Vict. No. 16, and error in schedule to that Act corrected by 21 Vict. No. 39; amended by 20 Vict. No. 4, 21 Vict. No. 9, and 25 Vict. No. 154; made permanent by 22 Vict. No. 68; repealed by Wines, Beer, and Spirits Sale Statute 1864.
17 Vict. No. 25	An Act to amend an Act intituled "An Act for the regulation of the Police Force."	Repealed and re-enacted by 28 Vict. No. 257.
17 Vict. No. 26	An Act to amend an Act intituled "An Act to make provision for the better control and disposal of Offenders."	Second proviso of s. 1 repealed by Criminal Law and Practice Statute 1864, and re-enacted in s. 293 thereof; repealed and re-enacted by Statute of Gaols 1864.
17 Vict. No. 27	An Act for the protection and management of Wharfs.	Repealed by Passengers, Harbors, and Navigation Statute 1865.
17 Vict. No. 28	An Act to amend an Act intituled "An Act to consolidate and amend the law relating to Ports, Harbors, and Shipping in the colony of Victoria."	Repealed and re-enacted by Passengers, Harbors, and Navigation Statute 1865.
17 Vict. No. 29	An Act to amend an Act intituled "An Act for making and improving Roads in the colony of Victoria."	Repealed as to road districts and district road boards by 27 Vict. No. 176; the remainder repealed by Public Works Statute 1865, and re-enacted in Part II. thereof.
17 Vict. No. 30	An Act to amend the law relating to the Post Office.	Sections 5, 6, 7, 15, and part of 19 repealed by 18 Vict. No. 31; amended by 21 Vict. No. 60, ss. 7 and 8; repealed and re-enacted in part by Post Office Statute 1864.
17 Vict. No. 31	An Act for Improvements in Fitzroy Ward in the city of Melbourne.	Amended by 24 Vict. No. 110; unrepealed.
17 Vict. No. 32	An Act to extend the Elective Franchise.	Repealed by Electoral Act 1865.
17 Vict.	An Act to incorporate the Proprietors of a certain banking company called the Bank of Victoria, and for other purposes therein mentioned.	Explained by 19 Vict.; unrepealed.

Date of Act.	Title of Act.	History of Act.
18 Vict. No. 1	An Act to protect the rights of Inventors of Articles at the Exhibition in Victoria of One thousand eight hundred and fifty-four.	Repealed by Patents Statute 1865.
18 Vict. No. 2	An Act to provide for the extension of the time allowed for the collection, publication, and exhibition of the Citizen Lists of the city of Melbourne, and for the receipt of notices of claims and objections relating thereto.	Extended to Geelong by 27 Vict. No. 178 s. 57; unrepealed.
18 Vict. No. 3	An Act to prevent the influx of Criminals into Victoria.	Continued by 19 Vict. No. 3 and 21 Vict No. 16; made permanent by 22 Vict. No. 68; unrepealed.
18 Vict. No. 4	An Act to make compulsory the practice of Vaccination.	Repealed and re-enacted by Public Health Statute 1865.
18 Vict. No. 5	An Act to regulate the Conveyance of Passengers to Victoria.	Amended and ss. 1 and 4 repealed by 19 Vict. No. 7; ss. 18 and 21 amended by 21 Vict. No. 17; s. 12 and part of s. 11 repealed by 25 Vict. No. 133; remainder repealed and partly re-enacted by Passengers, Harbors, and Navigation Statute 1865.
18 Vict. No. 6	An Act for the better control of Seamen belonging to Foreign Vessels.	Repealed and re-enacted by Seamen Statute 1865.
18 Vict. No. 7	An Act for Volunteer Corps in Victoria.	Amended by 19 Vict. No. 8 and 24 Vict. No. 113; ss. 3 and 4 repealed by 27 Vict. No. 183; the remainder repealed and re-enacted in part by Volunteer Statute 1864.
18 Vict. No. 8	An Act for the well ordering of Common Lodging Houses in the colony of Victoria.	Repealed by Public Health Statute 1865.
18 Vict. No. 9	An Act for granting Duties of Customs in the colony of Victoria.	Amended by 21 Vict. No. 15, 25 Vict. No. 144, and by 27 Vict. No. 169 s. 21; s. 2 with schedule repealed by 29 Vict. No. 293; the remainder unrepealed.
18 Vict. No. 10	An Act for the more effectual prosecution of Inquiries by Boards and Commissions.	Operation exhausted.
18 Vict. No. 11	An Act to alter the law relating to the Chief Commissioner of Insolvent Estates.	Repealed and re-enacted by 28 Vict. No. 273.
18 Vict. No. 12	An Act to indemnify all persons who have proclaimed or acted under the authority of martial law within a certain district in Victoria.	Operation exhausted.
18 Vict. No. 13	An Act for promoting the Public Health in populous places in the colony of Victoria.	Repealed and re-enacted in part by Public Health Statute 1865.
18 Vict. No. 14	An Act to provide for the Management of Towns and other places in Victoria.	Repealed by Police Offences Statute 1864, and re-enacted in Police Offences Statute 1865, Parts I., II., and V.; s. 19 re-enacted in Part II. of Public Health Statute 1865.

Date of Act.	Title of Act.	History of Act.
18 Vict. No. 15	An Act for the establishment of Municipal Institutions in Victoria.	Amended by 18 Vict. No. 32 and 19 Vict. No. 16; ss. 4, 5, and 6 repealed by 24 Vict. No. 114; the remainder repealed by 27 Vict. No. 184.
18 Vict. No. 16	An Act to re-enact three Acts passed in the ninth, eleventh, and sixteenth years of the reign of Her present Majesty, respecting the law between Masters and Servants.	Continued by 21 Vict. No. 16, and made permanent by 22 Vict. No. 68; repealed by Masters and Servants Statute 1864.
18 Vict. No. 17	An Act to continue an Act intituled "An Act to make provision for the sale of Fermented and Spirituous Liquors, and of Refreshments in certain districts."	Expired; see 18 Vict. No. 33; continued or revived by 21 Vict. No. 16, and made permanent by 22 Vict. No. 68; repealed by Wines, Beer, and Spirits Sale Statute 1864.
18 Vict. No. 18	An Act to amend an Act intituled "An Act to provide for the establishment of Public Abattoirs in the city of Melbourne and for preventing certain nuisances therein."	Extended to Geelong by 27 Vict. No. 178 s. 57; repealed by 27 Vict. No. 199.
18 Vict. No. 19	An Act for adopting a certain Act of Parliament intituled "An Act for the amendment of an Act passed in the first year of the reign of Her Majesty Queen Victoria intituled 'An Act for the amendment of the laws with respect to Wills.'"	Repealed by Wills Statute 1864.
18 Vict. No. 20	An Act to facilitate proceedings by and against Incorporated Companies.	Repealed by Instruments and Securities Statute 1864, and re-enacted in Part X., division 1 thereof.
18 Vict. No. 21	An Act to amend an Act intituled "An Act to enable the Mayor, Aldermen, Councillors, and Citizens of the city of Melbourne to raise a sum or sums of money not exceeding Five hundred thousand pounds in the whole, and for further amending the Acts relating to the Corporation thereof."	Unrepealed.
18 Vict. No. 22	An Act to amend an Act intituled "An Act to enable the Mayor, Aldermen, Councillors, and Burgesses of the town of Geelong to raise a sum or sums of money not exceeding Two hundred thousand pounds in the whole, and for the further amending the Acts relating to the Corporation thereof."	Unrepealed.
18 Vict. No. 23	An Act for the better regulation of Sales by Auction and Auctioneers.	Amended by 21 Vict. No. 9; repealed and re-enacted by Sales by Auction Statute 1864.
18 Vict. No. 24	An Act for facilitating the transfer of various Instruments and Securities.	Repealed by 21 Vict. No. 5.
18 Vict. No. 25	An Act to facilitate the delivery of Passengers' Luggage and Tools of Trade from ships arriving in the colony of Victoria from the United Kingdom or foreign ports.	Repealed and re-enacted by Passengers, Harbors, and Navigation Statute 1865, Part I., division 3 thereof.
18 Vict. No. 26	An Act to authorize the raising a sum of money for certain Public Works.	Repealed by 18 Vict. No. 40.
18 Vict. No. 27	An Act for granting Duties of Customs upon Gold exported from Victoria.	Amended by 25 Vict. No. 135; repealed by 29 Vict. No. 293.

Date of Act.	Title of Act.	History of Act.
18 Vict. No. 28	An Act to provide for the prevention of Disturbances of the Public Peace in Victoria.	Repealed and re-enacted by Unlawful Assemblies and Party Processions Statute 1865.
18 Vict. No. 29	An Act to further amend an Act intitutled "An Act for the general regulation of the Customs in the colony of Victoria."	Repealed by 21 Vict. No. 13.
18 Vict. No. 30	An act to amend the law relating to the Impounding of Cattle.	Section 21 amended by 21 Vict. No. 17; repealed and re-enacted by 28 Vict. No. 249.
18 Vict. No. 31	An Act to amend an Act intituled "An Act to amend the law relating to the Post Office."	Amended by 19 Vict. No. 10; repealed by the Post Office Statute 1864.
18 Vict. No. 32	An Act to amend an Act intituled "An Act for the establishment of Municipal Institutions in Victoria."	Repealed by 27 Vict. No. 184.
18 Vict. No. 33	An Act to further continue an Act intituled "An Act to make provision for the sale of Fermented and Spirituous Liquors, and of Refreshments in certain districts."	Amended by 21 Vict. No. 9, and continued by 21 Vict. No. 16; made permanent by 22 Vict. No. 68; repealed by Wines, Beer, and Spirits Sale Statute 1864.
18 Vict. No. 34	An Act to further alter "The Victoria Electoral Act of 1851," and to increase the number of Members of the Legislative Council of Victoria.	Repealed by 19 Vict. No. 12.
18 Vict. No. 35	An Act for applying certain sums arising from the revenue receivable in the colony of Victoria to the service thereof for the year One thousand eight hundred and fifty-five, and for further appropriating the said revenue.	Operation exhausted.
18 Vict. No. 36	An Act to prevent the further pollution of the waters of the river Yarra Yarra above the city of Melbourne.	Repealed by Public Health Statute 1865.
18 Vict. No. 37	An Act to amend the laws relating to the Gold Fields.	Repealed by 21 Vict. No. 32.
18 Vict. No. 38	An Act for preventing the extension of the disease called Scab in Sheep.	Repealed by 25 Vict. No. 143.
18 Vict. No. 39	An Act to make provision for certain Immigrants.	Section 5 amended by 21 Vict. No. 17; repealed by 22 Vict. No. 80.
18 Vict. No. 40	An Act to authorize the raising moneys for certain Public Works.	Section 14 repealed by Criminal Law and Practice Statute 1864, and re-enacted in s. 229 thereof; the remainder repealed by Public Works Statute 1865.
18 Vict. No. 41	An Act to consolidate and amend the laws relating to Friendly Societies.	Amended by 21 Vict. Nos. 10 and 53; repealed and re-enacted by Friendly Societies Statute 1865.
18 Vict. No. 42	An Act for the better regulation of Mining Companies.	Amended by 21 Vict. No. 56; repealed by Companies Statute 1864.
18 Vict. No. 43	An Act to alter the sum appropriated to the payment of the Salary of the Governor of Victoria.	Repealed by 27 Vict. No. 189.
18 Vict. No. 44	An Act to regulate the Execution of Criminals.	Repealed by Criminal Law and Practice Statute 1864, and re-enacted in Part IX. thereof.

Date of Act.	Title of Act.	History of Act.
18 Vict. No. 45	An Act to enable the bishops, clergy, and laity of the United Church of England and Ireland in Victoria to provide for the regulation of the affairs of the said church.	Amended by 36 Vict. No. 454; unrepealed.
18 Vict.	An Act to enable the City of Melbourne Gas and Coke Company to increase the capital of the said company to the sum of One hundred thousand pounds, to be raised by the issue of Six thousand shares of Ten pounds each.	Amended by 21 Vict. No. 14; unrepealed.
18 Vict.	An Act to enable the trustees for the time being of certain portions of the Belfast Church of England lands in the colony of Victoria to sell certain portions of the said lands.	Amended by 21 Vict. No. 23; unrepealed.
18 Vict.	An Act for the incorporation of a company called "The Melbourne Exchange Company."	Amended and ss. 5 and 10 and part of s. 2 repealed by 22 Vict. No. 75; remainder unrepealed.
18 Vict.	An Act to incorporate the Proprietors of a certain company called "The South Yarra Water Works Company," and for other purposes therein mentioned.	Repealed by Public Works Statute 1865.
18 Vict.	An Act to enable the City of Melbourne Gas and Coke Company to raise a sum or sums of money not exceeding Fifty thousand pounds in the whole, and for vesting certain real estates in the trustees of the said company, and for other purposes herein mentioned.	Amended by 21 Vict. No. 14; unrepealed.
18 Vict.	An Act to alter and amend an Act passed in the sixteenth year of the reign of Her Majesty Queen Victoria intituled "An Act to incorporate a company to be called 'The Geelong and Melbourne Railway Company.'"	Section 2 repealed by 27 Vict. No. 186; remainder repealed by Public Works Statute 1865.
18 Vict.	An Act to amend the Acts relating to the Bank of New South Wales.	Unrepealed.
19 Vict. No. 1	An Act to further continue an Act intituled "An Act to prevent for a limited time Party Processions and certain other Public Exhibitions, in the colony of New South Wales."	Continued by 21 Vict. No. 16; made permanent by 22 Vict. No. 68; repealed by Unlawful Assemblies and Party Processions Statute 1865.
19 Vict. No. 2	An Act to alter the laws relating to Bills of Exchange, Promissory Notes, and certain other securities, and to facilitate the remedies thereon.	Amended by 19 Vict. No. 19 s. 2; repealed by Instruments and Securities Statute 1864, and re-enacted in Part I., division 3 thereof.
19 Vict. No. 3	An Act to continue for a limited period an Act intituled "An Act to prevent the Influx of Criminals into Victoria."	Operation exhausted; see *ante*, 18 Vict. No. 3.
19 Vict. No. 4	An Act to amend the law respecting Defamatory Words and Libel.	Repealed and re-enacted by Statute of Wrongs 1865.
19 Vict. No. 5	An Act to re-enact an Act intituled "An Act to authorize for a limited period an Assessment of Stock."	Continued by 21 Vict. No. 16; repealed by 21 Vict. No. 47.
19 Vict. No. 6	An Act to repeal so much of an Act intituled "An Act more effectually to promote the erection of Buildings for Public Worship, and to provide for the maintenance of Ministers of Religion in the colony of Victoria" as relates to any grant of money out of the general revenue.	Repealed by Religious Trusts Statute 1865.
19 Vict. No. 7	An Act to amend an Act intituled "An Act to regulate the Conveyance of Passengers to Victoria."	Repealed and re-enacted in part by Passengers, Harbors, and Navigation Statute 1865.

Date of Act.	Title of Act.	History of Act.
19 Vict. No. 8	An Act to amend an Act intituled "An Act for Volunteer Corps in Victoria."	Repealed and re-enacted in part by Volunteer Statute 1865.
19 Vict. No. 9	An Act to amend an Act intituled "An Act to restrain the Careless Use of Fire."	Repealed by 21 Vict. No. 55.
19 Vict. No. 10	An Act to amend an Act intituled "An Act to amend an Act intituled 'An Act to amend the law relating to the Post Office.'"	Repealed and re-enacted in part by Post Office Statute 1864.
19 Vict. No. 11	An Act to provide for the better regulation of proceedings at Elections of Members of the Legislative Council and Legislative Assembly of Victoria respectively.	Repealed by 27 Vict. No. 168.
19 Vict. No. 12	An Act to provide for the Election of Members to serve in the Legislative Council and Legislative Assembly of Victoria respectively.	Sections 2 to 23 inclusive, and ss. 26, 27, repealed by 21 Vict. No. 33; ss. 1 to 57, except s. 55, and the schedules referred to in those sections, repealed by Electoral Act 1863; s. 57 repealed by 22 Vict. No. 81; ss. 55 and 78 to 84 inclusive repealed by Electoral Act 1865 and partly re-enacted in Part IV. thereof; remainder unrepealed.
19 Vict. No. 13	An Act to amend an Act intituled "An Act to make provision for the better Administration of Justice in the colony of Victoria"	Unrepealed.
19 Vict. No. 14	An Act to make provision for the eradication of certain Thistle Plants and the Bathurst Burr.	Repealed and re-enacted by Thistle Prevention Statute 1865.
19 Vict. No. 15	An Act to enable the Government of Victoria to purchase all the property and other interests possessed by the Melbourne, Mount Alexander, and Murray River Railway Company.	Section 9 repealed by Criminal Law and Practice Statute 1864 and re-enacted in s. 229 thereof; the remainder repealed by Public Works Statute 1865.
19 Vict. No. 16	An Act to amend an Act intituled "An Act for the establishment of Municipal Institutions in Victoria."	Repealed by 27 Vict. No. 184.
19 Vict. No. 17	An Act for applying certain sums arising from the revenue receivable in Victoria to the service thereof for the year One thousand eight hundred and fifty-six, and for further appropriating the said revenue.	Operation exhausted.
19 Vict. No. 18	An Act to amend an Act intituled "An Act for applying certain sums arising from the revenue receivable in the colony of Victoria to the service thereof for the year One thousand eight hundred and fifty-five, and for further appropriating the said revenue"	Operation exhausted.
19 Vict. No. 19	An Act to alter and simplify the Practice and mode of Procedure in an Action at Law, and for other purposes in relation thereto.	Sections 131 to 136 inclusive, 138, 139, and part of 137, repealed by 21 Vict. No. 19 and No. 39; ss. 140 to 144 inclusive, and 146 to 153 inclusive, and part of 137, repealed by 21 Vict. No. 8; ss. 174, 175, 301, and 308 repealed by 27 Vict. No. 185; s. 347 repealed by 22 Vict. No. 86; the remainder (except ss. 176, 292, 293, 294, 348, and 349, which are unrepealed) repealed by Common Law Procedure Statute 1865.

Date of Act.	Title of Act.	History of Act.
19 Vict. No. 20	An Act for adopting and applying portions of certain Acts of the Imperial Parliament, passed in the sessions of the thirteenth and fourteenth and in the fifteenth and sixteenth years of the reign of Her Majesty Queen Victoria, in the administration of Justice in Victoria.	Repealed by Statute of Trusts 1864.
19 Vict. No. 21	An Act to provide for the registration of Imported Stock.	Unrepealed.
19 Vict.	An Act to establish a Constitution in and for the colony of Victoria.	Short title "The Constitution Act," given by 21 Vict. No. 22; s. 2 in part repealed by Electoral Act 1865; s. 4 repealed by 32 Vict. No. 334; s 5 repealed by 21 Vict. No. 33; s. 7 repealed by 32 Vict. No. 334; s. 10 repealed by 22 Vict. No. 64; s. 11 in part repealed by 21 Vict. No. 12; ss. 12, 13, 14, and 15 repealed by 21 Vict. No. 33; ss. 17 and 18 repealed by 23 Vict. No. 91; s. 19 repealed by 22 Vict. No. 89; s. 25 repealed by 23 Vict. No. 91; s. 26 in part repealed by 21 Vict. No. 12, also in part repealed by 32 Vict. No. 334; s. 31 repealed by 21 Vict. No. 12; s. 33 in part repealed impliedly by 21 Vict. No. 12, repealed by 32 Vict. No. 334; ss. 46 and 47 in part repealed by 28 Vict. No. 235; s. 47 in part repealed by 27 Vict. No. 189; s. 48 explained by 22 Vict. No. 65; s. 51 repealed by 28 Vict. No. 235; s. 53 repealed after 31 Dec. 1875 by 34 Vict. No 391; sched. A repealed by 32 Vict. No. 334; sched. D, Part VIII., repealed after 31 Dec. 1875 by 34 Vict. No. 391.
19 Vict.	An Act to explain the provisions of an Act incorporating the Proprietors of the Bank of Victoria.	Unrepealed.
19 Vict.	An Act to authorize the admission of Alexander Keefer to practise as a barrister in the Supreme Court of the colony of Victoria.	Operation exhausted.
19 Vict.	An Act to incorporate a company to be called "The Studley Park Bridge Company," and to enable the said company to erect and maintain a bridge over the River Yarra Yarra at Church street, East Collingwood, and to take toll thereat, and for other purposes.	Unrepealed.
19 Vict.	An Act to enable Shareholders and Members of a certain joint stock insurance company, carrying on business in the colony of Victoria under the name, style, and firm of "The Victoria Fire and Marine Insurance Company," to sue and be sued in the name of the chairman for the time being of the board of directors of the said company, and for other purposes therein mentioned.	Unrepealed.

Date of Act.	Title of Act.	History of Act.
19 Vict.	An Act to authorize the Melbourne and Hobson's Bay Railway Company to make a branch railway from their present railway to St. Kilda, and to amend their Act of Incorporation and to extend the powers therein contained, and for other purposes.	Unrepealed; see 28 Vict. Nos. 270 and 271.
19 Vict.	An Act to incorporate the Proprietors of a certain banking company, to be called "The Colonial Bank of Australasia," and for other purposes.	Unrepealed.
20 Vict. No. 1	An Act for defining the Privileges, Immunities, and Powers of the Legislative Council and Legislative Assembly of Victoria respectively.	Unrepealed.
20 Vict. No. 2	An Act for taking an account of the Population.	Operation exhausted.
20 Vict. No. 3	An Act concerning Letters Patent for Inventions.	Repealed and re-enacted by Patents Statute 1865.
20 Vict. No. 4.	An Act to amend the laws relative to the vending of Fermented and Spirituous Liquors.	Section 4 repealed by 25 Vict. No. 147; the rest repealed by Wines, Beer, and Spirits Sale Statute 1864.
21 Vict. No. 5	An Act to amend the law relating to Bills of Lading.	Repealed by Instruments and Securities Statute 1864, and re-enacted in Part III. thereof.
21 Vict. No. 6	An Act to amend the law relating to Drafts or Checks on Bankers.	Repealed by Instruments and Securities Statute 1864, and re-enacted in Part II. thereof.
21 Vict. No. 7	An Act for granting a Duty of Customs on Opium.	Amended by 25 Vict. No. 155; repealed by 29 Vict. No. 293.
21 Vict. No. 8	An Act to consolidate and amend the law of Evidence.	Repealed by 24 Vict. No. 100.
21 Vict. No. 9	An Act to reduce the Fee payable for certain Licenses.	Repealed in part by Wines, Beer, and Spirits Sale Statute 1864, and the remainder by Sales by Auction Statute 1864.
21 Vict. No. 10	An Act to reduce the Fees on Registering Friendly Societies.	Repealed and re-enacted by Friendly Societies Statute 1865.
21 Vict. No. 11	An Act to ratify an exchange of land between Her Majesty and the Corporation of the city of Melbourne, and for other purposes.	Unrepealed.
21 Vict. No. 12	An Act to abolish the property qualification required by Members of the Legislative Assembly.	Unrepealed.
21 Vict. No. 13	An Act to consolidate and amend the laws relating to the Customs.	Sections 6, 10, 65, 66, 68, 71, 90, 91, 92, and part of s. 34 repealed by 27 Vict. No. 169 ss. 1 and 8; amended by 25 Vict. No. 144; ss. 100 and 101 repealed by 29 Vict. No. 293; ss. 123 and 124 repealed by 24 Vict. No. 119 s. 1; the remainder unrepealed.
21 Vict. No. 14	An Act to enable the City of Melbourne Gas and Coke Company to raise the sum of One hundred and fifty thousand pounds by the issue of thirty thousand shares of Five pounds each in addition to their present capital of One hundred thousand pounds, and for other purposes.	Unrepealed.

Date of Act.	Title of Act.	History of Act.
21 Vict. No. 15	An Act to amend the law relating to Gold Coin.	Section 2 repealed by Banks and Currency Statute 1864, and re-enacted in s. 14 thereof; the remainder repealed by 29 Vict. No. 293.
21 Vict. No. 16	An Act for the continuation of expiring laws.	Operation exhausted; partly repealed by Wines, Beer, and Spirits Sale Statute 1864.
21 Vict. No. 17	An Act to direct the payment of certain moneys into the consolidated revenue.	Unrepealed.
21 Vict. No. 18	An Act to enable the Melbourne and Hobson's Bay Railway Company to raise additional capital and to extend the provisions of the Acts relating to the company, and for conferring on the company additional powers in relation to the undertaking, and for other purposes.	Unrepealed.
21 Vict. No. 19	An Act for regulating Juries.	Repealed and re-enacted by Juries Statute 1865.
21 Vict. No. 20	An Act for the confirmation of certain Pensions.	Unrepealed.
21 Vict. No. 21	An Act to regulate the importation, carriage, and custody of Gunpowder.	Section 13 and schedule 2 repealed by 22 Vict. No. 66; the remainder repealed and re-enacted by Gunpowder Statute 1864.
21 Vict. No. 22	An Act for the Interpretation of Legislative Enactments, and for shortening the language used therein.	Unrepealed.
21 Vict. No. 23	An Act to amend "An Act to enable the Trustees for the time being of certain portions of the Belfast Church of England Lands, in the colony of Victoria, to sell certain portions of the said lands."	Unrepealed.
21 Vict. No. 24	An Act to provide for the collection and payment of the Public Moneys, the audit of the Public Accounts, and the protection and recovery of the Public Property.	Repealed by 22 Vict. No. 86 s. 1.
21 Vict. No. 25	An Act to facilitate leases and sales of Settled Estates in the colony of Victoria.	Repealed by Real Property Statute 1864, and re-enacted in Part V. thereof.
21 Vict. No. 26	An Act to enable the Shareholders in a joint stock insurance company, carrying on business in the colony of Victoria, under the name, style, or title of "The Colonial Insurance Company," to sue and be sued in the name of the chairman for the time being of the directors of the said company, and for other purposes.	Unrepealed.
21 Vict. No. 27	An Act to incorporate a company to be called "The Ballarat Gas Company," and for other purposes.	Unrepealed.
21 Vict. No. 28	An Act to make Powers of Attorney valid in certain cases.	Repealed by Instruments and Securities Statute 1864, and re-enacted in Part X., division 2 thereof.
21 Vict. No. 29	An Act for the more easy recovery of certain Debts and Demands.	Amended by 22 Vict. No. 76; repealed in part by Justices of Peace Statute 1865, and see Part III. thereof; the remainder repealed and re-enacted by County Courts Statute 1865.
21 Vict. No. 30	An Act for making and maintaining a Bridge over the Campaspe River at Echuca.	Unrepealed.

Date of Act.	Title of Act.	History of Act.
21 Vict. No. 31	An Act to establish a Board of Land and Works.	Amended by 21 Vict. No. 58; s. 4 explained by 25 Vict. No. 131 s. 2; repealed by Public Works Statute 1865, and partly re-enacted in Part I. thereof.
21 Vict. No. 32	An Act for amending the laws relative to the Gold Fields.	Amended by 24 Vict. No. 115; ss. 11 and 12 repealed by 25 Vict. No. 148; s. 90 repealed in part by s. 90 of 24 Vict. No. 115; ss. 113, 117, 119, 120 repealed by Criminal Law and Practice Statute 1864, and re-enacted (except s. 117) in Part II. thereof. The whole repealed by Mining Statute 1865.
21 Vict. No. 33	An Act to extend the Right of Voting, and to provide for the registration of Parliamentary Electors.	Sections 12 to 39 inclusive, and schedules 1 to 6 and last schedule, repealed by 22 Vict. No. 81; remainder repealed by Electoral Act 1865, and partly re-enacted in Part I. thereof.
21 Vict. No. 34	An Act to enable the Shareholders of a joint stock insurance company, established in the colony of Victoria, under the style or title of "The Australasian Fire and Life Insurance Company," to sue and be sued in the name of the chairman for the time being of the board of directors of the said company, and to limit the liability of such shareholders, and for other purposes.	Sections 4 and 16 repealed by 23 Vict. No. 97; amended by 29 Vict. No. 297; remainder unrepealed.
21 Vict. No. 35	An Act to authorize the construction of a main trunk line of railway from Melbourne to the River Murray and of a main trunk line of railway from Geelong to Ballarat.	Amended by 21 Vict. No. 50 and by 23 Vict. No. 92; repealed by Public Works Statute 1865.
21 Vict. No. 36	An Act to authorize the raising of moneys for the construction of certain railways.	Section 12 repealed by Criminal Law and Practice Statute 1864, and re-enacted in s. 229 thereof; remainder repealed by Public Works Statute 1865.
21 Vict. No. 37	An Act for preventing the spread of Small-pox.	Operation exhausted.
21 Vict. No. 38	An Act for the Construction of Railways.	Repealed by Public Works Statute 1865, and re-enacted in Part III. thereof.
21 Vict. No. 39	An Act to correct certain errors in Acts of this session.	Operation exhausted.
21 Vict. No. 40	An Act to provide for the Supervision of Railways.	Repealed by Public Works Statute 1865, and re-enacted in Part III. thereof.
21 Vict. No. 41	An Act regulate the residence of the Chinese population in Victoria.	Repealed by 22 Vict. No. 80.
21 Vict. No. 42	An Act to authorize the making of the St. Kilda and Brighton Railway.	Altered and extended by 22 Vict. No. 73 and 25 Vict. No. 127; s. 67 repealed by 25 Vict. No. 129; power to sell given by 28 Vict. No. 269; unrepealed.

Date of Act.	Title of Act.	History of Act.
21 Vict. No. 43	An Act for making and maintaining of the Melbourne and Suburban Railway.	Amended by 25 Vict. No. 129; and see Acts 25 Vict. No. 134 and 28 Vict. No. 270; unrepealed.
21 Vict. No. 44	An Act to appropriate the consolidated revenue to the service of the year One thousand eight hundred and fifty-seven, and for other purposes.	Operation exhausted.
21 Vict. No. 45	An Act to assimilate and simplify the oaths of qualification for office.	Unrepealed.
21 Vict. No. 46	An Act to appropriate the consolidated revenue towards the service of the year One thousand eight hundred and fifty-eight, and for other purposes.	Operation exhausted.
21 Vict. No. 47	An Act for an Assessment on Stock.	Repealed by 22 Vict. No. 79.
21 Vict. No. 48	An Act to give further remedies to creditors against debtors removing from any other of the Australasian Colonies to the colony of Victoria.	Repealed by Common Law Procedure Statute 1865.
21 Vict. No. 49	An Act for the enforcement of Claims against the Crown.	Repealed and re-enacted by Crown Remedies and Liability Statute 1865.
21 Vict. No. 50	An Act to amend an Act intituled "An Act to authorize the construction of a main trunk line of railway from Melbourne to the River Murray and of a main trunk line of railway from Geelong to Ballarat.	Repealed by Public Works Statute 1865.
21 Vict. No. 51	An Act more effectually to facilitate proceedings in the colony of Victoria by and against a certain banking company called the "Union Bank of Australia," and for other purposes therein mentioned.	Unrepealed.
21 Vict. No. 52	An Act to amend an Act intituled "An Act for making and improving Roads in the colony of Victoria."	Repealed by Public Works Statute 1865.
21 Vict. No. 53	An Act to amend the laws relating to particular Friendly Societies.	Repealed by Friendly Societies Statute 1865.
21 Vict. No. 54	An Act to restrict the boundaries of the town of Geelong, and to make further provision for defining the wards thereof.	Part of s. 4 repealed by 27 Vict. No. 178 s. 58; remainder unrepealed.
21 Vict. No. 55	An Act for preventing the Careless Use of Fire.	Section 4 repealed by Coroners Statute 1865, and re-enacted in part by s. 4 thereof; s. 5 repealed by Fences Statute 1865, and re-enacted in s. 6 thereof; the remainder repealed by Police Offences Statute 1865, and re-enacted in part by ss. 21 and 22 thereof.
21 Vict. No. 56	An Act to facilitate the formation of Mining Associations, and to amend and extend the provisions of an Act passed in the eighteenth year of the reign of Her present Majesty, intituled "An Act for the better regulation of Mining Companies," and to render certain preferable liens and mortgages of personalty by miners and mining companies valid without delivery, and for other purposes.	Repealed partially by 22 Vict. No. 62, and wholly by Companies Statute 1864.
21 Vict. No. 57	An Act to incorporate a company to be called "The Geelong Gas Company," and for other purposes.	Unrepealed.
21 Vict. No. 58	An Act to amend an Act to establish a Board of Land and Works.	Repealed by 25 Vict. No. 131 s. 4.

Date of Act.	Title of Act.	History of Act.
21 Vict. No. 59	An Act to amend an Act intituled "An Act to establish a Board of Commissioners for the better sewerage and drainage of the city of Melbourne, and for supplying water thereto and to the suburbs thereof."	Section 3 repealed by Criminal Law and Practice Statute 1864, and see ss. 185 and 186 thereof; the whole repealed by Public Works Statute 1865.
22 Vict. No. 60	An Act to enable the Postmaster-General to issue Money Orders in the colony of Victoria.	Repealed by Post Office Statute 1864; and re-enacted in part by The Post Office Statutes 1865 and 1866.
22 Vict. No. 61	An Act to amend the law relating to the administration of the Estates of Deceased Persons.	Repealed by Real Property Statute 1864, and re-enacted in Part XI. thereof.
22 Vict. No. 62	An Act to amend "The Mining Association Act 1858."	Repealed by Companies Statute 1864.
22 Vict. No. 63	An Act for granting a Duty on Spirits distilled in Victoria.	Repealed by 25 Vict. No. 147.
22 Vict. No. 64	An Act to alter the Electoral Districts of Victoria and to increase the number of Members of the Legislative Assembly thereof.	Amended by 24 Vict. No. 106; s. 6 repealed by 22 Vict. No. 81; the remainder unrepealed.
22 Vict. No. 65	An Act to remove doubts as to the power of the Governor under the forty-eighth section of the Constitution Act.	Unrepealed.
22 Vict. No. 66	An Act to amend an Act intituled "An Act to regulate the importation, carriage, and custody of Gunpowder."	Repealed and re-enacted by Gunpowder Statute 1864.
22 Vict. No. 67	An Act for the regulation of the Oyster Fisheries in Victoria.	Repealed and re-enacted by Fisheries and Game Statute 1864, Part II.
22 Vict. No. 68	An Act for the continuation of expiring laws.	Amended by 25 Vict. No. 154; partly repealed by Masters and Servants Statute 1864; by Wines, Beer, and Spirits Sale Statute 1864; by Instruments and Securities Statute 1864; and by Unlawful Assemblies and Party Processions Statute 1865; so much as relates to 18 Vict. No. 3 and 19 Vict. No. 3 is unrepealed.
22 Vict. No. 69	An Act to incorporate a company to be called the Bendigo Waterworks Company, and for other purposes.	Unrepealed.
22 Vict. No. 70	An Act to amend and consolidate the laws affecting the solemnization of Marriage.	Section 21 repealed by Criminal Law and Practice Statute 1864, and see s. 238 thereof; the remainder repealed by Marriage and Matrimonial Causes Statute 1864, and re-enacted in Parts I. and II. thereof.
22 Vict. No. 71	An Act to incorporate a company to be called "The Castlemaine Gas Company," and for other purposes.	Unrepealed.
22 Vict. No. 72	An Act to enable the Trustees for the time being to sell and convey certain land situate in the city of Melbourne, and vested in such Trustees, to the use of the Religious Society denominated Wesleyan Methodists.	Unrepealed.

Date of Act.	Title of Act.	History of Act.
22 Vict. No. 73	An Act to alter and extend some of the provisions contained in the St. Kilda and Brighton Railway Act 1857, and for other purposes.	Unrepealed.
22 Vict. No. 74	An Act to incorporate the Shareholders of the National Bank of Australasia, and for other purposes.	Amended by 23 Vict. No. 93; unrepealed.
22 Vict. No. 75	An Act to reduce the capital and borrowing powers of the Melbourne Exchange Company, and for other purposes.	Unrepealed.
22 Vict. No. 76	An Act to amend the law relating to the more easy recovery of certain Debts and Demands.	Continued by 24 Vict. No. 122; repealed by Justices of the Peace Statute 1865, and re-enacted in s. 49 thereof.
22 Vict. No. 77	An Act for the protection of the Fisheries of Victoria.	Repealed by 25 Vict. No. 152.
22 Vict. No. 78	An Act to amend the law relating to Innkeepers, Carriers, and others.	Section 24 repealed by Criminal Law and Practice Statute 1864, and re-enacted in s. 64 thereof; the remainder unrepealed.
22 Vict. No. 79	An Act for an Assessment on Stock.	Repealed by 25 Vict. No. 145.
22 Vict. No. 80	An Act to consolidate and amend the laws affecting the Chinese emigrating to or resident in Victoria.	Sections 5, 7, 8, 9, and 15 suspended for two years by 27 Vict. No. 170; ss. 10, 12, 13, 14, 16, 17, and part of s. 11 repealed by 25 Vict. No. 132; the remainder repealed by Chinese Immigration Statute 1864, and re-enacted by Chinese Immigrants Statute 1865.
22 Vict. No. 81	An Act to amend the law relating to the registration of Parliamentary Electors.	Repealed by 27 Vict. No. 168.
22 Vict. No. 82	An Act to amend an Act intituled "An Act to regulate the temporal affairs of the Synod of Victoria, and to amend the laws relating thereto."	Unrepealed; amended by 31 Vict. No. 321.
22 Vict. No. 83	An Act for the establishment of a Board of Agriculture.	Repealed by 34 Vict. No. 380.
22 Vict. No. 84	An Act for the preservation of Fish in the lakes and rivers of the colony of Victoria.	Repealed by 25 Vict. No. 152.
22 Vict. No. 85	An Act to authorize the making of the Melbourne and Essendon Railway, and for other purposes.	Unrepealed.
22 Vict. No. 86	An Act to amend the law for the collection and payment of the Public Moneys, the audit of the Public Accounts, and the protection and recovery of the Public Property,	Section 29 repealed by 36 Vict. No. 425; s. 44 repealed by Criminal Law and Practice Statute 1864, and re-enacted in Part II., division 11 thereof; ss. 54-70 inclusive repealed by Crown Remedies and Liability Statute 1865; the remainder unrepealed.
22 Vict. No. 87	An Act to declare void a certain bye-law passed by the council of the Municipal District of Ballarat, respecting the supply of water for domestic, sanitary, and other purposes from Yuille's swamp.	Unrepealed.
22 Vict. No. 88	An Act to appropriate the consolidated revenue to the service of the year One thousand eight hundred and fifty-nine, and for other purposes.	Operation exhausted.

Date of Act.	Title of Act.	History of Act.
22 Vict. No. 89	An Act to shorten the duration of the Legislative Assembly.	Unrepealed.
22 Vict. No. 90	An Act to enlarge the powers of the Australian Trust Company, and to remove doubts as to the validity of deeds executed by agents of the company, and for other purposes.	Unrepealed.
23 Vict. No. 91	An Act to limit the number of persons holding offices under the Crown who may sit and vote in the Legislative Council and Assembly of Victoria.	Amended by 25 Vict. No. 128; explained by 25 Vict. No. 131; s. 5 amended by 36 Vict. No. 441 s. 4; unrepealed.
23 Vict. No. 92	An Act to amend an Act intituled "An Act to authorize the construction of a main trunk line of railway from Melbourne to the River Murray and of a main trunk line of railway from Geelong to Ballarat."	Repealed by Public Works Statute 1865.
23 Vict. No. 93	An Act to amend the provisions of an Act incorporating the shareholders in the National Bank of Australasia.	Unrepealed.
23 Vict. No. 94	An Act to amend the law relating to Registration.	Repealed by 27 Vict. No. 168.
23 Vict. No. 95	An Act to provide for the better regulation and discipline of Armed Vessels in the service of Her Majesty's Local Government in Victoria.	Disallowed.
23 Vict. No. 96	An Act to incorporate the Board of Land and Works, and to vest in the said Board the undertaking of the Geelong and Melbourne Railway Company and other property.	Section 14 partially repealed by 27 Vict. No. 176; the whole repealed by Public Works Statute 1865.
23 Vict. No. 97	An Act to repeal the fourth and sixteenth sections of "The Australasian Fire and Life Insurance Company's Act 1857," and to substitute other provisions in lieu thereof.	Unrepealed. See 29 Vict. No. 297.
24 Vict. No. 98	An Act to appropriate the consolidated revenue to the service of the year One thousand eight hundred and sixty, and for other purposes.	Operation exhausted.
24 Vict. No. 99	An Act for the Administration of the Estates of Deceased Persons in certain cases.	Repealed and re-enacted by 27 Vict. No. 230.
24 Vict. No. 100	An Act further to amend and to consolidate the law of Evidence.	Repealed by Statute of Evidence 1864; ss. 24, 25, 26, re-enacted in Common Law Procedure Statute 1865, Part II., division 18; s. 48 re-enacted in Real Property Statute 1864 s. 175; the remainder re-enacted by Statute of Evidence 1864.
24 Vict. No. 101	An Act for supplying the district of the Ovens with water.	Unrepealed.
24 Vict. No. 102	An Act to incorporate a company to be called "The Bendigo Gas Company," and for other purposes.	Unrepealed.
24 Vict. No. 103	An Act to incorporate a company to be called "The Collingwood, Fitz Roy, and District Gas and Coke Company," and for other purposes.	Unrepealed.
24 Vict. No. 104	An Act for the remission of penalties and the discharge of persons from imprisonment in certain cases.	Last part of s. 2 repealed by, and re-enacted in s. 40 of, Marriage and Matrimonial Causes Statute 1864; remainder of s. 2 re-enacted in Statute of Gaols 1864 s. 14; remainder unrepealed.

Date of Act.	Title of Act.	History of Act.
24 Vict. No. 105	An Act for enabling the Municipal Council of Beechworth to construct water works and supply their district with water, and for other purposes.	Unrepealed.
24 Vict. No. 106	An Act to alter the boundaries of the Electoral District of Belfast.	Unrepealed.
24 Vict. No. 107	An Act to indemnify all persons who may have advised, signed, or issued any warrant varying the appropriation of certain portions of the sums of £75,000 and £110,000 appropriated in aid of district road boards in the years 1858 and 1859 respectively, and of the sum of £15,000 appropriated in aid of municipalities to be created during the year 1858, or who may have acted under the authority of the same.	Operation exhausted.
24 Vict. No. 108	An Act for securing the Freedom of the Deliberations of Parliament, and for preventing disorderly meetings.	Repealed and re-enacted by Unlawful Assemblies and Party Processions Statute 1865, Part I.
24 Vict. No. 109	An Act to limit the liability of Mining Partnerships.	Repealed by Companies Statute 1864.
24 Vict. No. 110	An Act to amend an Act intituled "An Act for improvements in Fitz Roy Ward, in the city of Melbourne."	Unrepealed.
24 Vict. No. 111	An Act to remove doubts as to the validity of certain mining regulations and bye-laws.	Repealed by Mining Statute 1865.
24 Vict. No. 112	An Act to amend the law of Property, and for other purposes.	Sections 1–6 repealed by Landlord and Tenant Statute, and re-enacted in Part I. thereof; ss. 7 and 8 repealed by Real Property Statute 1864, and re-enacted in Part XX. thereof; ss. 9–14 repealed by Real Property Statute 1864, and re-enacted in Part XII. thereof; s. 15 repealed by Real Property Statute 1864, and re-enacted in s. 16 thereof; s. 16 repealed by Instruments and Securities Statute 1864, and re-enacted in s. 128 thereof; s. 17 repealed by Statute of Trusts 1864, and re-enacted in s. 64 thereof; ss. 18 and 19 repealed by Real Property Statute 1864, and re-enacted in ss. 189 and 3 thereof; ss. 20 and 21 repealed by Landlord and Tenant Statute 1864, and re-enacted in ss. 20 and 21 thereof; ss. 22 and 23 repealed by Statute of Trusts 1864, and re-enacted in ss. 60 and 78 thereof; ss. 24–30 repealed by Real Property Statute 1864, and re-enacted in Part XIV. thereof; ss. 31 and 32 repealed by Real Property Statute 1864, and re-enacted in Part XIII. thereof; ss. 33

Date of Act.	Title of Act.	History of Act.
24 Vict. No. 112	An Act to amend the law of Property, and for other purposes—(*continued*).	and 34 repealed by Real Property Statute 1864, and s. 33 re-enacted in Part II. thereof; s. 35 repealed by Landlord and Tenant Statute 1864, and re-enacted in s. 19 thereof; s. 36 repealed by Real Property Statute 1864, and re-enacted in s. 157 thereof; s. 37 repealed by Wills Statute 1864, and re-enacted in s. 34 thereof; s. 38 repealed by Landlord and Tenant Statute 1864, and re-enacted in s. 18 thereof; ss. 39 and 40 repealed by Real Property Statute 1864, and re-enacted in Part VI. thereof; s. 41 repealed by Common Law Procedure Statute 1865; s. 42 repealed by Real Property Statute 1864; s. 43 repealed by Real Property Statute 1864, and re-enacted in s. 214 thereof; s. 44 repealed by Savings Bank Statute 1865; s. 45 repealed by Real Property Statute 1864, and re-enacted in s. 158 thereof; ss. 46 and 47 repealed by Real Property Statute 1864, and re-enacted in Part III. thereof; s. 48 repealed by Aliens Statute 1865, and see ss. 3 and 4 thereof; s. 49 repealed by Instruments and Securities Statute 1864, and re-enacted in s. 93 thereof; s. 50 repealed by Real Property Statute 1864, and re-enacted in s. 202 thereof; s. 51 repealed by Statute of Trusts 1864, and re-enacted in s. 61 thereof; ss. 52–91 repealed by Real Property Statute 1864, and re-enacted therein as follows: s. 52 in s. 75; s. 53 in s. 193; ss. 54–60 in Part XV.; ss. 61–63 in Part XVI.; ss. 64–70 in Part VII.; ss. 71–77 in Part VIII.; s. 78 in Part IX.; ss. 80–89 (except s. 82) in Part IV.; s. 82 in s. 123; s. 91 in s. 3.
24 Vict. No. 113	An Act to amend the law relating to Volunteer Corps.	Repealed and re-enacted by Volunteer Statute 1864.
24 Vict. No. 114	An Act to amend an Act intituled "An Act for the establishment of Municipal Institutions in Victoria."	Repealed by 27 Vict. No. 184.
24 Vict. No. 115	An Act to amend an Act intituled "An Act for amending the laws relating to the Gold Fields."	Repealed by Mining Statute 1865.

Date of Act.	Title of Act.	History of Act.
24 Vict. No. 116	An Act to amend an Act intituled "An Act to amend an Act intituled 'An Act to enable certain public hospitals to sue and be sued in the name of their treasurer, and to provide for the the taking and holding of real property belonging to such hospitals respectively.'"	Unrepealed.
24 Vict. No. 117	An Act for regulating the sale of Crown Lands, and for other purposes.	Repealed by 25 Vict. No. 145 (Land Act 1862).
24 Vict. No. 118	An Act to amend an Act intituled "An Act to extend the provisions of the Acts relating to legally qualified Medical Practitioners."	Repealed by Medical Practitioners Statute 1865.
24 Vict. No. 119	An Act to repeal certain clauses of the "Customs Act 1857," and to substitute others in lieu thereof.	Unrepealed.
24 Vict. No. 120	An Act for taking an account of the Population in 1861.	Operation exhausted.
24 Vict. No. 121	An Act to remove doubts as to the extent of the power of the Governor to commute the Sentence of Death.	Repealed by Criminal Law and Practice Statute 1864, and re-enacted in Part IX., s. 319 thereof.
24 Vict. No. 122	An Act to continue an Act intituled "An Act to amend the law relating to the more easy recovery of certain Debts and Demands."	Repealed by Justices of Peace Statute 1865.
24 Vict. No. 123	An Act to prevent the further spread of the disease in cattle called Pleuro-pneumonia.	Amended by 25 Vict. No. 136; operation exhausted.
25 Vict. No. 124	An Act to appropriate the consolidated revenue to the service of the year One thousand eight hundred and sixty-one, and for other purposes.	Operation exhausted.
25 Vict. No. 125	An Act to amend the law relating to Divorce and Matrimonial Causes.	Sections 3 and 37 unrepealed; the remainder of the Act repealed by Marriage and Matrimonial Causes Statute 1864, and re-enacted in Parts IV. to IX. thereof.
25 Vict. No. 126	An Act to authorize the Melbourne and Essendon Railway Company to make a branch railway to the Racecourse, and for other purposes.	Unrepealed.
25 Vict. No. 127	An Act to enable the St. Kilda and Brighton Railway Company to extend their railway to the shore of Port Phillip Bay, to make a deviation in their main line, to construct a pier and other works, to raise further sums of money, to issue preference shares, and for other purposes.	Unrepealed.
25 Vict. No. 128	An Act to amend the Act intituled "An Act to limit the number of persons holding offices under the Crown who may sit and vote in the Legislative Council and Legislative Assembly of Victoria."	Unrepealed.
25 Vict. No. 129	An Act to alter an enactment respecting the opening with a double line of rails of the Melbourne and Suburban Railway, and to substitute another provision in lieu thereof.	Unrepealed.
25 Vict. No. 130	An Act to amend the law relating to Pawnbrokers in the colony of Victoria.	Repealed and re-enacted by Pawnbrokers Statute 1865.
25 Vict. No. 131	An Act to remove doubts as to the construction of certain Statutes and as to the validity of certain acts purporting to be performed under them, and for other purposes.	The preamble and ss. 2–5 repealed by Public Works Statute 1865; the remainder unrepealed.
25 Vict. No. 132	An Act to amend an Act intituled "An Act to consolidate and amend the laws affecting the Chinese emigrating to or resident in Victoria."	Repealed and re-enacted in part by Chinese Immigration Statute 1864.

Date of Act.	Title of Act.	History of Act.
25 Vict. No. 133	An Act to amend an Act intituled "An Act to regulate the Conveyance of Passengers to Victoria."	Repealed by Passengers, Harbors, and Navigation Statute 1865.
25 Vict. No. 134	An Act to enable the Melbourne and Suburban Railway Company to sell their undertaking and property, and for other purposes.	Unrepealed.
25 Vict. No. 135	An Act to amend an Act intituled "An Act for granting Duties of Customs upon Gold exported from Victoria."	Repealed by 29 Vict. No. 293.
25 Vict. No. 136	An Act to amend an Act intituled "An Act to prevent the further spread of the disease in cattle called Pleuro-pneumonia."	Repealed and re-enacted by Diseases of Animals Prevention Statute 1864, Part III.
25 Vict. No. 137	An Act to suspend the operation of certain enactments relating to registration of Parliamentary Electors, and for other purposes.	Repealed by 27 Vict. No. 168.
25 Vict. No. 138	An Act to apply the sum of Four hundred and twenty-two thousand two hundred and fifty pounds out of the consolidated revenue to the service of the year One thousand eight hundred and sixty-two.	Operation exhausted.
25 Vict. No. 139	An Act to apply a sum out of the consolidated revenue to the service of the year One thousand eight hundred and sixty-two, and to appropriate the Supplies granted in this session of Parliament, and for other purposes.	Operation exhausted.
25 Vict. No. 140	An Act to simplify the laws relating to the transfer and encumbrance of freehold and other interests in land.	Amended by 27 Vict. Nos. 180 and 223; doubts removed by 27 Vict. No. 210; s. 131 repealed by Criminal Law and Practice Statute 1864, and re-enacted in s. 234 thereof; remainder repealed by Transfer of Land Statute.
25 Vict. No. 141	An Act to prevent Frauds upon creditors by secret bills of sale of personal chattels.	Repealed by Instruments and Securities Statute 1864, and re-enacted in Part VII. thereof.
25 Vict. No. 142	An Act to authorize the exportation from the colony of Victoria free of Customs duty of Gold not being the produce of the said colony, and for other purposes.	Unrepealed.
25 Vict. No. 143	An Act to repeal the Act intituled "An Act for preventing the extension of the disease called Scab in Sheep," and to substitute other provisions in lieu thereof.	Repealed and re-enacted by Diseases of Animals Prevention Statute 1864, Parts II. and IV.
25 Vict. No. 144	An Act to amend the laws relating to the Customs.	Repealed by 29 Vict. No. 293.
25 Vict. No. 145	An Act to consolidate and amend the laws relating to the sale and occupation of Crown Lands.	Amended by 28 Vict. No. 237; part of s. 40 repealed and re-enacted by Sales by Auction Statute 1864 s. 24; ss. 49, 56, and 57, and parts of ss. 52, 53, and 55 repealed by Mining Statute 1865; amended by 33 Vict. No. 359 s. 404; repealed by Land Act 1869, 33 Vict. No. 360.
25 Vict. No. 146	An Act for the punishment of any person who shall by his negligence cause grievous bodily injury to any other person.	Repealed by Criminal Law and Practice Statute 1864, and s. 1 re-enacted in s. 24 thereof.

Date of Act.	Title of Act.	History of Act.
25 Vict. No. 147	An Act to consolidate and amend the law relating to the distillation, rectifying, and compounding of Spirits, to the granting a Duty upon Spirits distilled in Victoria, and to regulate the brewing of Beer and the sale of Fermented and Spirituous Liquors in certain cases.	Unrepealed.
25 Vict. No. 148	An Act to amend the law relating to Leases of Auriferous Lands, and for other purposes.	Repealed and re-enacted in part by Mining Statute 1865.
25 Vict. No. 149	An Act for the better maintenance and establishment of Common Schools in Victoria.	Repealed by 36 Vict. No. 447.
25 Vict. No. 150	An Act to authorize the borrowing of Three hundred thousand pounds for the purpose of repairing a certain portion of the railway from Melbourne to Geelong, and of forming a junction line between the railway from Melbourne to Geelong and the railway from Geelong to Ballarat, and for the formation of such junction line, and also the deviation line, and for other purposes in connection with the said railway from Melbourne to Geelong.	Repealed by Public Works Statute 1865.
*25 Vict. No. 151	An Act for Weights and Measures.	Repealed and re-enacted by Weights and Measures Statute 1864.
25 Vict. No. 152	An Act to amend and consolidate the laws for the protection of the Fisheries of Victoria.	Repealed and re-enacted by Fisheries and Game Statute 1864.
25 Vict. No. 153	An Act to amend the law relating to the Drainage of Quartz Reefs.	Amended by 28 Vict. No. 275; repealed by Mining Statute 1865.
25 Vict. No. 154	An Act to amend in certain respects the law relating to Licensed Public Houses.	Repealed and re-enacted in part by Wines, Beer, and Spirits Sale Statute 1864 s. 20.
25 Vict. No. 155	An Act to amend an Act for granting a Duty of Customs on Opium.	Repealed by 29 Vict. No. 293.
25 Vict. No. 156	An Act for regulating Schools of Anatomy.	Repealed by Medical Practitioners Statute 1865, and re-enacted in Part IV. thereof.
25 Vict. No. 157	An Act to repeal "An Act to regulate the temporal affairs of churches and chapels of the United Church of England and Ireland in New South Wales," and to make other provisions instead thereof.	Unrepealed.

* Downing Street, 23rd September 1862.

Sir,—I have not advised Her Majesty to leave to its operation the Act No. 151, for Weights and Measures, which was transmitted in your Despatch No. 67, of the 2nd July 1862, because the first clause is open to an important objection of form. It assumes to repeal, as far as they are in force in the colony, all Imperial Statutes whatever respecting Weights and Measures. This of course the local legislature is quite competent to do, so far as regards statutes which are in force in Victoria only because they were passed prior to the establishment of the colony of New South Wales, or which are in force only because they have been expressly adopted by some colonial enactment. But (as you are well aware) it would not be within the competency of the colonial legislature to repeal Acts which apply to Victoria, because the Imperial Parliament has declared its intention that they should so apply. As far as I can ascertain, there are no Imperial Acts of this class relating to Weights and Measures; and there is no doubt that if there were any the local legislature ought to be empowered to repeal or alter them. I therefore readily assume that the first clause of the Act now forwarded involves no real conflict between Imperial and local legislation, and I do not think it necessary to require that it should be amended. But I wish you to point out to your advisers that the form adopted on this occasion should be abandoned, since the Home Government cannot be expected to examine in each instance what is the actual effect of a provision which in terms exceeds the powers of the colonial legislature; and I have to instruct you that clauses declaring that Imperial statutes shall no longer be in force in the colony should in all cases be expressly limited either to specified statutes, or to those classes of statutes which, within its territorial jurisdiction the legislature is confessedly competent to repeal. In order to make it plain that the first clause of this law is not to be quoted as a precedent, Her Majesty will be advised to refrain from signifying her pleasure respecting the Act, which, however, will remain in force, and two years hence will become incapable of disallowance.

I have the honor to be,
Sir,
Your most obedient humble servant,
NEWCASTLE.

Governor Sir H. Barkly, K.C.B.,
&c. &c. &c.

Date of Act.	Title of Act.	History of Act.
25 Vict. No. 158	An Act to amend the laws relating to the registration of legally qualified Medical Practitioners.	Repealed and re-enacted by Medical Practitioners Statute 1865.
25 Vict. No. 159	An Act for the better administration of the law by justices of the peace, and for other purposes in connection therewith.	Sections 2, 3, 4 repealed by, and re-enacted in Part I., ss. 38, 40, and 41, of Criminal Law and Practice Statute 1864, and again repealed by Police Offences Statute 1865; the remainder of the Act repealed by Justices of the Peace Statute 1865, and re-enacted in Parts II., III., and VII. thereof.
25 Vict. No. 160	An Act to regulate the Civil Service.	Unrepealed.
25 Vict. No. 161	An Act to provide for the preservation of Imported Game and, during the breeding season, of Native Game.	Repealed and re-enacted by Fisheries and Game Statute 1864.
26 Vict. No. 162	An Act to apply out of the consolidated revenue the sum of Thirty-six thousand pounds to the service of the year One thousand eight hundred and sixty-two, and the sum of Five hundred thousand pounds to the service of the year One thousand eight hundred and sixty-three.	Operation exhausted.
26 Vict. No. 163	An Act for the better enabling the assignees of the insolvent estate of the Provident Institute of Victoria to collect and administer the same for the benefit of the creditors of such company, and to vest the said estate in the said assignees with power to sell and give discharges for moneys received by them, and for other purposes, the short title of which is "The Provident Institute Estate Act."	Operation exhausted.
26 Vict. No. 164	An Act to suspend the operation of certain enactments relating to registration of Parliamentary Electors.	Repealed by 27 Vict. No. 168.
26 Vict. No. 165	An Act to apply out of the consolidated revenue the sum of Five hundred thousand pounds to the service of the year One thousand eight hundred and sixty-three.	Operation exhausted.
26 Vict. No. 166	An Act to amend the law relating to Aliens.	Repealed and, with alterations, re-enacted by Aliens Statute 1865.
27 Vict. No. 167	An Act to make better provision for the punishment of Frauds committed by trustees, bankers, and other persons intrusted with property.	Repealed by Statute of Trusts 1864, and re-enacted in ss. 82–96 thereof.
27 Vict. No. 168	An Act to amend the law relating to the qualifications and registration of Electors of Members to serve in Parliament, and to regulate Proceedings at Parliamentary Elections.	Amended and ss. 28 and 114 repealed by 27 Vict. No. 181; repealed and re-enacted by Electoral Act 1865.
27 Vict. No. 169	An Act to further amend the laws relating to the Customs.	Section 16 repealed by 29 Vict. No. 293; the remainder unrepealed.
27 Vict. No. 170	An Act to amend an Act intituled "An Act to consolidate and amend the laws affecting the Chinese emigrating to and resident in Victoria."	Repealed by Chinese Immigration Statute 1864.
27 Vict. No. 171	An Act for the improvement of the municipal district of East Collingwood, in the colony of Victoria.	Unrepealed.
27 Vict. No. 172	An Act to apply out of the consoldated revenue the sum of Ninety-two thousand pounds to the service of the year One thousand eight hundred and sixty-two, and the further sum of Five hundred thousand pounds to the service of the year One thousand eight hundred and sixty-three.	Operation exhausted.

Date of Act.	Title of Act.	History of Act.
27 Vict. No. 173	An Act to remove doubts as to the validity of acts done by John George Forbes, Esquire, as Commissioner of Insolvent Estates for the Geelong Circuit District.	Repealed by Insolvency Statute 1865.
27 Vict. No. 174	An Act to regulate the Passenger Trade of Victoria.	Repealed and re-enacted by Passengers, Harbors, and Navigation Statute 1865.
27 Vict. No. 175	An Act to regulate Immigration into Victoria.	Repealed and re-enacted by Immigration Statute 1864.
27 Vict. No. 176	An Act to establish Road Districts and Shires, and generally to provide for the administration of local affairs without the limits of boroughs.	Section 283 repealed by Justices of Peace Statute 1865, and re-enacted in s. 7 thereof; s. 318 repealed by Pounds Statute 1864; s. 319, s. 320 so far as it relates to the Act mentioned in s. 319, and s. 321 repealed by 33 Vict. No. 356; s. 322 repealed by Thistles Prevention Statute 1865; s. 323 repealed and re-enacted by Dog Act 1864; ss. 326 and 327 repealed by Amending Land Act 1865 s. 51; repealed so far as the same relates to shires by 33 Vict. No. 358; remainder repealed by 38 Vict. No. 506.
27 Vict. No. 177	An Act to prevent the adulteration of articles of food or drink.	Repealed and re-enacted by Public Health Statute 1865.
27 Vict. No. 178	An Act to further alter and amend the laws relating to the Corporations of the city of Melbourne and of the town of Geelong respectively, and to extend and apply other existing Acts thereto.	Section 35 in part repealed by Justices of Peace Statute 1865, and re-enacted in s. 6 thereof; ss. 49 and 50 in part repealed by Public Health Statute 1865; ss. 50 and 57 in part repealed by 27 Vict. No. 217.
27 Vict. No. 179	An Act to exempt certain Contracts from the Law of Partnerships.	Unrepealed.
27 Vict. No. 180	An Act to amend the Real Property Act.	Repealed by Transfer of Land Statute.
27 Vict. No. 181	An Act to amend the "Electoral Act 1863."	Repealed and re-enacted by Electoral Act 1865.
27 Vict. No. 182	An Act for the amendment of the Mercantile Law.	Sections 9, 16, 17, 18, 20 repealed by Common Law Procedure Statute 1865, and re-enacted therein as follows:—s. 9 in s. 285, s. 16 in s. 403, s. 17 in s. 404, s. 18 in s. 405, s. 20 in s. 406; s. 15 repealed by Passengers, Harbors, and Navigation Statute 1865, and re-enacted by s. 133; the remainder repealed by Instruments and Securities Statute 1864, and re-enacted therein as follows:—s. 1 in s. 119, s. 2 in s. 120, s. 3 in s. 121, s. 4 in s. 122, s. 5 in s. 123, s. 6 in s. 125, s. 7 in s. 124, s. 8 in s. 124, s. 10 in s. 53, s. 11 in s. 54, s. 12 in s. 55, s. 13 in s. 8, s. 14 in s. 28, and s. 19 in s. 110.

Date of Act.	Title of Act.	History of Act.
27 Vict. No. 183	An Act to amend the law relating to Volunteer Corps.	Repealed and re-enacted by Volunteer Statute 1864.
27 Vict. No. 184	An Act to consolidate and amend the laws relating to Municipal Institutions.	Section 127 repealed by Justices of Peace Statute 1865, and re-enacted in s. 7 thereof; s. 235 repealed by Criminal Law and Practice Statute 1864, and re-enacted in s. 229 thereof; s. 355 repealed and re-enacted by Pounds Statute 1865 s. 5; s. 358 repealed and re-enacted by Thistle Prevention Statute 1865 s. 12; s. 370 partially repealed by Pounds Statute 1865; wholly repealed by The Boroughs Statute 1869, 33 Vict. No. 359.
27 Vict. No. 185	An Act to reduce the Expenses of Proceedings in the Supreme Court at common law.	Section 10 repealed by County Courts Statute 1865; the remainder repealed and re-enacted by Common Law Procedure Statute 1865.
27 Vict. No. 186	An Act for the better Management of Railways.	Sections 43, 44, and 45 repealed by Criminal Law and Practice Statute 1864, and re-enacted in Part I., ss. 29, 30, and 31, and Part III., ss. 188 and 189 thereof; the remainder repealed by Public Works Statute 1865, and re-enacted in Part III. thereof.
27 Vict. No. 187	An Act to apply a sum out of the consolidated revenue to the service of the year One thousand eight hundred and sixty-three and to appropriate the Supplies granted in this session of Parliament, and for other purposes.	Operation exhausted.
27 Vict. No. 188	An Act to apply out of the consolidated revenue the sum of One hundred and twenty thousand seven hundred and eighty-two pounds twelve shillings and nine pence to the service of the year One thousand eight hundred and sixty-three, and the sum of Five hundred thousand pounds to the service of the year One thousand eight hundred and sixty-four.	Operation exhausted.
27 Vict. No. 189	An Act to repeal the appropriation of the sum provided for the payment of the salaries of the Governor's Staff and of the Governor's travelling and other expenses.	Unrepealed.
27 Vict. No. 190	An Act for the incorporation, regulation, and winding-up of Trading Companies and other associations.	Unrepealed.
27 Vict. No. 191	An Act to apply out of the consolidated revenue the sum of One million three hundred and thirteen thousand four hundred and nine pounds nine shillings and one penny to the service of the year One thousand eight hundred and sixty-four.	Operation exhausted.
27 Vict. No. 192	An Act to consolidate the laws relating to Landlord and Tenant.	Unrepealed.

Date of Act.	Title of Act.	History of Act.
27 Vict. No. 193	An Act to consolidate the law relating to Masters and Apprentices.	Unrepealed.
27 Vict. No. 194	An Act to consolidate the laws relating to Banks and the Currency.	Unrepealed.
27 Vict. No. 195	An Act to consolidate the laws relating to Immigration into Victoria.	Amended by 36 Vict. No. 441.
27 Vict. No. 196	An Act to regulate the importation, carriage, and custody of Gunpowder.	Amended by 36 Vict. No. 440.
27 Vict. No. 197	An Act to consolidate the law of Evidence.	Section 14 repealed by 36 Vict. No. 443 s. 3 and new provision substituted; s. 26 amended by 36 Vict. No. 443 s. 9; remainder unrepealed.
27 Vict. No. 198	An Act to consolidate the laws relating to Masters and Servants.	Unrepealed.
27 Vict. No. 199	An Act to consolidate the laws relating to Abattoirs and the Slaughtering of Cattle.	Repealed by 33 Vict. No. 356.
27 Vict. No. 200	An Act to consolidate the laws affecting the Chinese emigrating to or resident in Victoria.	Repealed and partly re-enacted by 28 Vict. No. 259.
27 Vict. No. 201	An Act to consolidate and amend the laws relating to Cemeteries.	Section 20 repealed by 31 Vict. No. 310 s. 9; remainder unrepealed.
27 Vict. No. 202	An Act to consolidate the laws relating to Markets.	Unrepealed.
27 Vict. No. 203	An Act to consolidate the law relating to Sales by Auction and Auctioneers.	Unrepealed.
27 Vict. No. 204	An Act to consolidate the law relating to Instruments and Securities.	Sections 125, 126, repealed by Criminal Law and Practice Statute 1864; s. 28 in part and ss. 29, 30, 31, and 32 repealed by 37 Vict. No. 458; amended and explained and s. 41 repealed by 29 Vict. No. 283; Part VIII. and schedules 5 and 6 repealed and new provisions substituted by 31 Vict. No. 313; remainder unrepealed.
27 Vict. No. 205	An Act to consolidate the laws relating to the Volunteer Force.	Repealed and re-enacted by Volunteer Statute 1865.
27 Vict. No. 206	An Act to consolidate the laws for the protection of Fisheries and Game.	Explained and amended by 29 Vict. No. 286; repealed by 37 Vict. No. 473.
27 Vict. No. 207	An Act to stay and to prevent proceedings against persons concerned in levying certain Duties of Customs.	Expired.
27 Vict. No. 208	An Act to apply out of the consolidated revenue the sum of Ten thousand pounds to the service of the year One thousand eight hundred and sixty-three, and the further sum of Three hundred thousand pounds to the service of the year One thousand eight hundred and sixty-four.	Operation exhausted.
27 Vict. No. 209	An Act to establish a Wharfage and Harbors Rate.	Repealed by Passengers, Harbors, and Navigation Statute 1865.
27 Vict. No. 210	An Act to allay doubts as to the validity of the Real Property Act.	Repealed by Transfer of Land Statute.

Date of Act.	Title of Act.	History of Act.
27 Vict. No. 211	An Act to apply a sum out of the consolidated revenue to the service of the year One thousand eight hundred and sixty-four, and to appropriate the Supplies granted in this session of Parliament, and for other purposes.	Operation exhausted.
27 Vict. No. 212	An Act to consolidate the laws relating to the preventing the printing and publishing of books and papers by persons not known, and to the printing and publishing of newspapers.	Unrepealed.
27 Vict. No. 213	An Act to consolidate Acts now in force in Victoria relating to Real Property.	Section 64 repealed by 31 Vict. No. 318 and new provision substituted by 36 Vict. No. 433 s. 2; ss. 79 and 88 explained, and s. 214 repealed and new provision substituted by 31 Vict. No. 318; s. 119 repealed and new provision substituted by 34 Vict. No. 378.
27 Vict. No. 214	An Act for conferring certain powers on the Australian Mutual Provident Society.	Unrepealed.
27 Vict. No. 215	An Act to amend the law relating to Weights and Measures.	Unrepealed.
27 Vict. No. 216	An Act for the amendment of the law relating to Neglected and Criminal Children.	Unrepealed; amended by 38 Vict. No. 495.
27 Vict. No. 217	An Act to consolidate the law relating to Licensed Carriages.	Unrepealed.
27 Vict. No. 218	An Act to consolidate the law relating to the registration of Births, Deaths, and Marriages.	Repealed by Registration of Births, Deaths, and Marriages Statute 1865.
27 Vict. No. 219	An Act to consolidate the law relating to Gaols.	Sections 8 and 28 repealed by 35 Vict. No. 397; amended by 36 Vict. No. 431 and by 37 Vict. No. 463.
27 Vict. No. 220	An Act for Hospitals and Charitable Institutions.	Unrepealed.
27 Vict. No. 221	An Act to amend the law relating to the fraudulent marking of Merchandise.	Unrepealed.
27 Vict. No. 222	An Act to consolidate the laws relating to Wills.	Unrepealed.
27 Vict. No. 223	An Act to further amend the Real Property Act, and for other purposes.	Repealed by Transfer of Land Statute except ss. 23, 24, 25, which are unrepealed.
27 Vict. No. 224	An Act to facilitate the Drainage of Land for agricultural and other purposes.	Unrepealed.
27 Vict. No. 225	An Act to consolidate the law relating to the Management of Towns and other populous places, and for the suppression of various offences.	Repealed by Police Offences Statute 1865.
27 Vict. No. 226	An Act to consolidate and amend the law relating to the Post Office.	Repealed by Post Office Statute 1865.
27 Vict. No. 227	An Act to consolidate and amend the laws relating to the licensing of Public Houses and the sale of Fermented and Spirituous Liquors.	Section 55 repealed by Coroners Statute 1865; ss. 46, 47, 62, and 71, and Parts II., III., IV., and V. repealed by 34 Vict. No. 390; the remainder unrepealed.
27 Vict. No. 228	An Act to limit the liability of Mining Companies.	Explained by 31 Vict. No. 324; repealed by 35 Vict. No. 409.

Date of Act.	Title of Act.	History of Act.
27 Vict. No. 229	An Act to amend the law relating to Dogs.	Unrepealed.
27 Vict. No. 230	An Act to make undevised real estate distributable amongst next of kin, and to provide for the administration of the Estates of Deceased Persons in certain cases.	Sections 4, 5, 6, 7, 14, and 32 repealed by 36 Vict. No. 427.
27 Vict. No. 231	An Act to consolidate and amend the law relating to the prevention of Diseases of Animals.	Amended by 36 Vict. No. 418; Part II. continued by 31 Vict. No. 314, 31 Vict. Nos. 325 and 326, 32 Vict. No. 328; repealed as to s. 3 in part by 34 Vict. No. 370 s. 2, and 36 Vict. No. 451 s. 2; Part II. repealed by 34 Vict. No. 370; Part III. repealed by 36 Vict. No. 451; s. 39 repealed so far as relates to Part II. by 34 Vict. No. 370; remainder unrepealed.
27 Vict. No. 232	An Act to provide for the regulation and discipline of the paid Naval and Military Forces in the service of Her Majesty's Local Government in Victoria.	Expired.
27 Vict. No. 233	An Act to consolidate the law relating to Crimes and the Practice in Criminal Courts.	Sections 43 and 44, and 46 to 49, and 58 and 59 amended by 35 Vict. No. 399 s. 28; s. 178 amended by 35 Vict. No. 399 s. 23; ss. 190 and 191 repealed by 37 Vict. No. 455 s. 30, and re-enacted in ss. 44 and 45 thereof; s. 319 amended by 35 Vict. No. 399 s. 27; s. 330 repealed by 38 Vict. No. 502 s. 1; s. 337 repealed by 35 Vict. No. 399 s. 3; s. 353 repealed by 38 Vict. No. 502 s. 1; remainder unrepealed.
28 Vict. No. 234	An Act to consolidate the law relating to Trusts and Trustees.	Sections 82 to 96 both inclusive and part of s. 2 repealed by 35 Vict. No. 399.
28 Vict. No. 235	An Act to amend the law relating to the Pensions of Responsible Officers.	Unrepealed.
28 Vict. No. 236	An Act to apply out of the consolidated revenue the sum of Sixty thousand pounds to the service of the year One thousand eight hundred and sixty-four, and Five hundred thousand pounds to the service of the year One thousand eight hundred and sixty-five.	Operation exhausted.
28 Vict. No. 237	An Act to amend the Land Act 1862.	Section 44 and part of s. 52 repealed by Mining Statute 1865; doubts removed by 29 Vict. No. 296; repealed by Land Act 1869, 33 Vict. No. 360.
28 Vict. No. 238	An Act to remove doubts as to the validity of certain mining bye-laws.	Repealed by Mining Statute 1865.
28 Vict. No. 239	An Act to consolidate the law relating to Dividing Fences.	Repealed, except s. 4, by 37 Vict. No. 479 s. 2.

Date of Act.	Title of Act.	History of Act.
28 Vict. No. 240	An Act to consolidate the law concerning Letters Patent for Inventions.	Amended by 36 Vict. No. 422 and No. 432.
28 Vict. No. 241	An Act to consolidate the law relating to the protection and recovery of Crown property and the enforcement of Claims against the Crown.	Unrepealed.
28 Vict. No. 242	An Act to consolidate the law relating to the Practice in the Supreme Court in its equitable jurisdiction.	Unrepealed.
28 Vict. No. 243	An Act to consolidate the laws relating to Bakers and Millers.	Unrepealed.
28 Vict. No. 244	An Act to consolidate the law relating to Trusts for religious purposes.	Unrepealed.
28 Vict. No. 245	An Act to consolidate the law relating to Seamen.	Unrepealed.
28 Vict. No. 246	An Act to consolidate the law relating to the registration of Births, Deaths, and Marriages.	Unrepealed.
28 Vict. No. 247	An Act to consolidate the law relating to Unlawful Assemblies, Special Constables, and Riotously Disturbed Districts.	Unrepealed.
28 Vict. No. 248	An Act to consolidate the laws relating to Pawnbrokers.	Unrepealed.
28 Vict. No. 249	An Act to consolidate the law relating to the Impounding of Cattle.	Repealed by 37 Vict. No. 478.
28 Vict. No. 250	An Act to consolidate the law relating to the eradication of Thistles.	Unrepealed.
28 Vict. No. 251	An Act to consolidate the laws relating to Wrongs.	Unrepealed.
28 Vict. No. 252	An Act to consolidate the law relating to Licensed Theatres.	Unrepealed.
28 Vict. No. 253	An Act to consolidate the law relating to Coroners.	Unrepealed; amended by 33 Vict. No. 338.
28 Vict. No. 254	An Act to consolidate the law relating to Friendly Societies.	Section 13 repealed in part by 32 Vict. No. 329.
28 Vict. No. 255	An Act to consolidate the law relating to Passengers, Harbors, and Navigation.	Sections 66, 77, and 79 repealed and new provision substituted by 31 Vict. No. 312.
28 Vict. No. 256	An Act to consolidate the law relating to Aliens.	Unrepealed.
28 Vict. No. 257	An Act to consolidate the law relating to the Police Force in Victoria.	Repealed by 37 Vict. No. 476.
28 Vict. No. 258	An Act to consolidate the law relating to Hawkers and Pedlers.	Repealed by 29 Vict. No. 281.
28 Vict. No. 259	An Act to amend the laws affecting the Chinese Immigration.	Unrepealed.
28 Vict. No. 260	An Act to apply out of the consolidated revenue the sum of Twenty-four thousand two hundred and ninety-four pounds nineteen shillings and fourpence to the service of the year One thousand eight hundred and sixty-four and Two hundred thousand pounds to the service of the year One thousand eight hundred and sixty-five.	Operation exhausted.
28 Vict. No. 261	An Act for the consolidation of the law relating to County Courts.	Amended and s. 22 repealed by 29 Vict. No. 282; repealed by 33 Vict. No. 345.
28 Vict. No. 262	An Act to consolidate the laws relating to Medical Practitioners.	Unrepealed.
28 Vict. No. 263	An Act to consolidate the laws relating to Savings Banks.	Unrepealed.

Date of Act.	Title of Act.	History of Act.
28 Vict. No. 264	An Act to consolidate the laws relating to Public Health.	Part I. repealed by 31 Vict. No. 310 s. 10; Part V. repealed by 38 Vict. No. 501 s. 2; remainder unrepealed.
28 Vict. No. 265	An Act to consolidate the law relating to the Management of Towns and other populous places, and for the suppression of various offences.	Section 31 amended by 36 Vict. No. 424; remainder unrepealed.
28 Vict. No. 266	An Act to consolidate the laws relating to the Volunteer Force.	Unrepealed.
28 Vict. No. 267	An Act to consolidate and amend the law relating to Justices of the Peace and Courts of General and Petty Sessions.	Section 7 repealed by 33 Vict. Nos. 358 and 359; ss. 15 to 17, and 21, 24, 25, 26, 30, repealed by 38 Vict. No. 502; ss. 41, 65, 106, repealed and new provisions substituted by 31 Vict. No. 319; remainder unrepealed.
28 Vict. No. 268	An Act to consolidate the laws relating to Marriage and to Deserted Wives and Children, and to Divorce and Matrimonial Causes.	Unrepealed.
28 Vict. No. 269	An Act to authorize the sale and purchase of the St. Kilda and Brighton Railway, and for other purposes.	Unrepealed.
28 Vict. No. 270	An Act to amalgamate the Melbourne and Hobson's Bay Railway Company and the Melbourne Railway Company, and for other purposes.	Unrepealed.
28 Vict. No. 271	An Act to repeal the thirty-eighth section of the Act of Incorporation of the Melbourne and Hobson's Bay Railway Company upon the payment and expenditure of certain sums of money, and to relieve the United Company formed by the amalgamation of the said company with the Melbourne Railway Company from certain reservations in their Crown grants, and to make provisions respecting bridges and level crossings, and for other purposes.	Unrepealed.
28 Vict. No. 272	An Act to amend the law for regulating Juries.	Amended by 36 Vict. No. 445; unrepealed.
28 Vict. No. 273	An Act to consolidate the law relating to Insolvents and their Estates.	Amended and explained by 29 Vict. No. 300; ss. 11, 12, 14, 18, 19, and Part XIII. repealed by 34 Vict. No. 379.
28 Vict. No. 274	An Act to consolidate the laws relating to the Pleading and Practice of the Supreme Court in its common law jurisdiction.	Section 21 repealed in part by 38 Vict. No. 502; ss. 85 and 408 repealed by 29 Vict. No. 290; remainder unrepealed.
28 Vict. No. 275	An Act to amend an Act intituled "An Act to amend the law relating to the Drainage of Quartz Reefs."	Repealed by Mining Statute 1865, and re-enacted by s. 71, division 14 thereof.
29 Vict. No. 276	An Act to apply out of the consolidated revenue the sum of Two hundred thousand pounds to the service of the year One thousand eight hundred and sixty-five.	Operation exhausted.
29 Vict. No. 277	An Act to amend the law relating to the Post Office.	Repealed by 29 Vict. No. 298.
29 Vict. No. 278	An Act to incorporate a company for the purpose of making, constructing, and maintaining a tramway or railway between the boroughs of Sandhurst and Inglewood, to be called "The Sandhurst and Inglewood Tramway Company."	Unrepealed.

Date of Act.	Title of Act.	History of Act.
29 Vict. No. 279	An Act to consolidate and amend the law relating to Electors and Elections of Members to serve in Parliament.	Sections 5, 6, 7, and so much of s. 74 as relates to the issue of writs for the election of Members to serve in the Legislative Council repealed by 32 Vict. No. 344 s. 2; remainder unrepealed.
29 Vict. No. 280	An Act to legalize Preferable Liens on Yearly Crops.	Unrepealed.
29 Vict. No. 281	An Act to amend the law relating to Hawkers and Pedlers.	Unrepealed.
29 Vict. No. 282	An Act to provide for the better Administration of Justices in county courts.	Repealed by 33 Vict. No. 345.
29 Vict. No. 283	An Act to amend and explain the Instruments and Securities Statute 1864.	Unrepealed.
29 Vict. No. 284	An Act to amend the law for Imprisonment for Debt.	Section 1 repealed and re-enacted with amendments by 29 Vict. No. 292; continued by 31 Vict. No. 320.
29 Vict. No. 285	An Act to make permanent provision for a Mint in Victoria.	Repealed by 30 Vict. No. 307.
29 Vict. No. 286	An Act to explain and amend the Fisheries and Game Statute.	Repealed by 37 Vict. No. 473.
29 Vict. No. 287	An Act to authorize the raising of money for certain public purposes.	Unrepealed.
29 Vict. No. 288	An Act to authorize works for supplying water to certain districts and places in Victoria.	Section 4 repealed in part by 33 Vict. No. 344; s. 5 repealed in part by 36 Vict. No. 442; remainder unrepealed.
29 Vict. No. 289	An Act to amend and consolidate the laws relating to Public Works.	Section 16 amended by 36 Vict. No. 443 s. 8; ss. 78 to 94 inclusive, part of Part VII. and part of s. 191 repealed by 33 Vict. No. 344; Part VI. repealed and in part re-enacted by 37 Vict. No. 455; remainder unrepealed.
29 Vict. No. 290	An Act to explain and amend the "Common Law Procedure Statute 1865."	Unrepealed.
29 Vict. No. 291	An Act to provide for the management of and the Administration of Justice in relation to mining interests.	Section 13 explained by 31 Vict. No. 316; s. 24 explained by 34 Vict. No. 372; s. 27 amended by 36 Vict. No. 446; s. 101 sub-sec. 3 explained and s. 212 amended by 36 Vict. No. 446; part of s. 213 repealed by 36 Vict. No. 446; remainder unrepealed.
29 Vict. No. 292	An Act to amend the Act numbered Two hundred and eighty-four.	Unrepealed.
29 Vict. No. 293	An Act for granting to Her Majesty certain Duties of Customs and for altering certain other duties.	Repealed except as to s. 9, as to part of s. 12, and as to s. 13 by 31 Vict. No. 306.

Date of Act.	Title of Act.	History of Act.
29 Vict. No. 294	An Act to apply out of the consolidated revenue the sum of Thirteen thousand and twenty-nine pounds twelve shillings and nine pence to the service of the year One thousand eight hundred and sixty-four, and One million five hundred and fifty-three thousand six hundred and sixty-seven pounds and eleven pence to the service of the year One thousand eight hundred and sixty-five, and Six hundred thousand pounds to the service of the year One thousand eight hundred and sixty-six.	Operation exhausted.
29 Vict. No. 295	An Act to apply a sum out of the consolidated revenue to the service of the year One thousand eight hundred and sixty-six and to appropriate the Supplies granted in this session of Parliament, and for other purposes.	Operation exhausted.
29 Vict. No. 296	An Act to remove doubts concerning the law relating to the Grant of Land Certificates to Volunteers.	Unrepealed.
29 Vict. No. 297	An Act to alter the style and title of "The Australasian Fire and Life Insurance Company," and for other purposes.	Unrepealed.
29 Vict. No. 298	An Act to amend the law relating to the Post Office.	Section 15 repealed in part by The Stamp Statute 1869; ss. 18 and 24 and part of s. 50 repealed and new provision substituted by 37 Vict. No. 455; s. 48 repealed by 34 Vict. No. 384; schedule 11, new schedule substituted for, by 37 Vict. No. 455; remainder unrepealed.
29 Vict. No. 299	An Act to protect the Rights of Inventors of articles exhibited at the Intercolonial Exhibition and at divers local exhibitions in Victoria in the year One thousand eight hundred and sixty-six.	Expired.
29 Vict. No. 300	An Act to amend and explain the "Insolvency Statute 1865," and for other purposes.	Repealed by 34 Vict. No. 379.
29 Vict. No. 301	An Act to simplify the title to and the dealing with Estates in Land.	Section 20 repealed and new provision substituted by 33 Vict. No. 353 s. 11; s. 33 repealed and new provision substituted by 31 Vict. No. 317; s. 45 amended by 35 Vict. No. 402; ss. 67 to 74 both inclusive repealed by 36 Vict No. 427; s. 88 repealed by 31 Vict. No. 317; s. 111 repealed and new provision substituted by 33 Vict. No. 353 s. 12; remainder unrepealed.
30 Vict. No. 302	An Act to legalize and make valid certain Insolvencies and Proceedings in Insolvency under the "Insolvency Statute 1865."	Repealed by 34 Vict. No. 379.
30 Vict. No. 303	Appropriation of Revenue.	Operation exhausted.
30 Vict. No. 304	Appropriation of Revenue.	Operation exhausted.

Date of Act.	Title of Act.	History of Act.
30 Vict. No. 305	An Act to enable the Shareholders of a joint stock insurance company, established in the colony of Victoria, under the name or style of "The Australian Alliance Assurance Company" to sue and be sued in the name of the chairman for the time being of the directors of the company, and for other purposes.	Unrepealed.
30 Vict. No. 306	An Act for granting to Her Majesty certain Duties of Customs and for altering certain other duties.	Schedule 2 amended by 33 Vict. No. 346; s. 2 and schedules 2, 3, and 4 repealed by 35 Vict. No. 400 s. 2; remainder unrepealed.
30 Vict. No. 307	An Act to make permanent provision for a Branch of the Royal Mint in Victoria.	Unrepealed.
30 Vict. No. 308	An Act to explain certain provisions in the Act of Parliament of Victoria No. 295.	Unrepealed.
30 Vict. No. 309	An Act to consolidate and amend the law relating to Lunatics.	Section 10 amended by 33 Vict. No. 342 s. 1; s. 17 amended by 33 Vict. No. 342 s. 2, and repealed by 36 Vict. No. 449 s. 2; s. 147 repealed and new provision substituted by 33 Vict. No. 342 s. 3; remainder unrepealed.
30 Vict. No. 310	An Act to amend the laws relating to or affecting Public Health.	Amended by 36 Vict. No. 436; unrepealed.
31 Vict. No. 311	An Act to protect Game.	Schedule 1 amended by 35 Vict. No. 408; confirmed by 37 Vict. No. 464; unrepealed.
31 Vict. No. 312	An Act to amend "The Passengers, Harbors, and Navigation Statute 1865."	Unrepealed.
31 Vict. No. 313	An Act to amend "The Instruments and Securities Statute 1864."	Unrepealed.
31 Vict. No. 314	An Act for the continuation of an expiring law.	Expired.
31 Vict. No. 315	An Act to vest portion of suburban section 68 in the parish of Jika Jika and county of Bourke in Her Majesty, and in the mayor, councillors, and burgesses of the borough of East Collingwood.	Unrepealed.
31 Vict. No. 316	An Act to amend "The Mining Statute 1865."	Unrepealed.
31 Vict. No. 317	An Act to amend the "Transfer of Land Statute."	Unrepealed.
31 Vict. No. 318	An Act to amend the "Real Property Statute 1864."	Section 1 repealed and new provision substituted by 36 Vict. No. 433; remainder unrepealed.
31 Vict. No. 319	An Act to amend "The Justices of the Peace Statute 1865."	Unrepealed.
31 Vict. No. 320	An Act for the continuation of an expiring law.	Unrepealed.
31 Vict. No. 321	An Act to amend the Act 22 Victoria No. 82 intituled "An Act to amend an Act intituled 'An Act to regulate the temporal affairs of the Synod of Victoria, and to amend the law relating thereto,' and for other purposes therein mentioned."	Unrepealed.
31 Vict. No. 322	An Act to apply the sum of Three hundred thousand pounds out of the consolidated revenue to the service of the year One thousand eight hundred and sixty-seven.	Operation exhausted.

Date of Act.	Title of Act.	History of Act.
31 Vict. No. 323	An Act to amend the law relating to Boroughs, Shires, and Road Districts.	Repealed so far as relates to shires and road districts by 33 Vict. No. 358, and so far as relates to boroughs by 33 Vict. No, 359.
31 Vict. No. 324	An Act to amend "The Mining Companies Limited Liability Act 1864."	The whole Act except s. 9 repealed by 35 Vict. No. 409.
31 Vict. No. 325	An Act for the continuation of an expiring law.	Repealed by 34 Vict. No. 370.
31 Vict. No. 326	An Act for the continuation of an expiring law.	Expired.
32 Vict. No. 327	An Act to apply the sum of One million nine hundred and fifty thousand pounds out of the consolidated revenue to the services of the years One thousand eight hundred and sixty-seven and One thousand eight hundred and sixty-eight.	Operation exhausted.
32 Vict. No. 328	An Act for the continuation of an expiring law.	Repealed by 34 Vict. No. 370.
32 Vict. No. 329	An Act to explain and amend the "Friendly Societies Statute 1865."	Unrepealed.
32 Vict. No. 330	An Act to vest the lines of railway of the Melbourne and Essendon Railway Company in the Board of Land and Works, and for other purposes.	Unrepealed.
32 Vict. No. 331	An Act to authorize the raising of Money for Railways, and for other purposes.	Unrepealed.
32 Vict. No. 332	An Act to authorize the raising of Money for Public Works and other purposes.	Unrepealed.
32 Vict. No. 333	An Act to adopt the British Pharmacopœia.	Unrepealed.
32 Vict. No. 334	An Act to alter the qualifications of Members and Electors of the Legislative Council.	Section 33 operation exhausted; otherwise unrepealed.
32 Vict. No. 335	An Act to apply a sum out of the consolidated revenue to the services of the years One thousand eight hundred and sixty-six, One thousand eight hundred and sixty-seven, and One thousand eight hundred and sixty-eight respectively, and to appropriate the Supplies granted in this session of Parliament, and for other purposes.	Operation exhausted.
32 Vict. No. 336	An Act to apply out of the consolidated revenue the sum of Thirty-six thousand four hundred and eighty-five pounds twelve shillings and five pence to the service of the year One thousand eight hundred and sixty-eight, and the sum of Five hundred thousand pounds to the service of the year One thousand eight hundred and sixty-nine.	Operation exhausted.
32 Vict. No. 337	An Act to apply out of the consolidated revenue the sum of Five hundred thousand pounds to the service of the year One thousand eight hundred and sixty-nine.	Operation exhausted.
33 Vict. No. 338	An Act to amend the "Coroners Statute 1865."	Unrepealed.
33 Vict. No. 339	An Act to apply out of the consolidated revenue the sum of Six hundred thousand pounds to the service of the year One thousand eight hundred and sixty-nine.	Operation exhausted.
33 Vict. No. 340	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account" for Salaries, Wages, and Contingencies for the service of the years One thousand eight hundred and sixty-eight and One thousand eight hundred and sixty nine.	Operation exhausted.

Date of Act.	Title of Act.	History of Act.
33 Vict. No. 341	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Account" for Salaries, Wages, and Contingencies for the service of the year One thousand eight hundred and sixty-nine.	Operation exhausted.
33 Vict. No. 342	An Act to amend "The Lunacy Statute."	Section 2 repealed by 36 Vict. No. 449 s. 2; remainder unrepealed.
33 Vict. No. 343	An Act to amend the law relating to Crimes and the Practice in Criminal Courts.	Unrepealed.
33 Vict. No. 344	An Act to provide for the mode of procedure in taking and determining the Compensation to be paid for Lands required by the State for public works.	Amended as to part of s. 30 and generally, and repealed as to ss. 38 to 47 both inclusive, and as to part of s. 54 and the third schedule by 35 Vict. No. 392; remainder unrepealed.
33 Vict. No. 345	An Act to amend and consolidate the laws relating to County Courts, and to confer on said courts a limited jurisdiction in equity, probate, and administration.	Section 39 in part repealed by 33 Vict. No. 350 s. 55; Part IV. repealed by 36 Vict. No. 427; remainder unrepealed.
33 Vict. No. 346	An Act to amend the laws relating to the Customs.	Impliedly repealed by 35 Vict. No. 400.
33 Vict. No. 347	An Act for better carrying out the "Waterworks Act 1865."	Amended and explained by 34 Vict. No. 375; s. 9 further provided for by 36 Vict. No. 442 s. 2; remainder unrepealed.
33 Vict. No. 348	An Act to authorize the construction of a main trunk line of railway from Essendon to the Upper Murray at Belvoir.	Unrepealed.
33 Vict. No. 349	An Act to provide for the protection and management of the Aboriginal Natives of Victoria.	Unrepealed.
33 Vict. No. 350	An Act to secure to Proprietors of Designs for Articles and Works of Manufacture and Art, and to Proprietors of Works of Literature and Fine Art, the Copyright of such designs and works for a limited period.	Unrepealed.
33 Vict. No. 351	An Act to apply a sum out of the consolidated revenue to the service of the year One thousand eight hundred and sixty-nine and to appropriate the Supplies granted in this session of Parliament, and for other purposes.	Operation exhausted.
33 Vict. No. 352	An Act to sanction the issue and application of a certain sum of money from "The Railway Loan Account" for Salaries, Wages, and Contingencies for the service of the year One thousand eight hundred and sixty-nine.	Operation exhausted.
33 Vict. No. 353	An Act concerning Claims to Dower affecting certain lands for the time being subject to the provisions of "The Transfer of Land Statute," and for other purposes.	Unrepealed.
33 Vict. No. 354	An Act to amend the "Mining Companies Limited Liability Act 1864," and for other purposes.	Sections 1, 2, and 4 repealed by 35 Vict. No. 409; remainder unrepealed.
33 Vict. No. 355	An Act to provide for the collection by means of Stamps of Fees payable in the several courts of law and equity and departments of the Public Service.	Section 3 repealed by 37 Vict. No. 455 s. 15; remainder unrepealed.

Date of Act.	Title of Act.	History of Act.
33 Vict. No. 356	An Act to amend the laws relating to Abattoirs and the Slaughtering of Cattle.	Section 40 repealed and new provision substituted by 33 Vict. No. 365; remainder unrepealed.
33 Vict. No. 357	An Act to provide for the incorporation and government of the Public Library, Museums, and National Gallery of Victoria.	Unrepealed.
33 Vict. No. 358	An Act to amend and consolidate the law relating to Road Districts and Shires.	Sections 7, 141, and 192 amended by 34 Vict. No. 387; s. 266 amended by 37 Vict. No. 470; s. 324 amended by 35 Vict. No. 401; repealed by 38 Vict. No. 506.
33 Vict. No. 359	An Act to amend and consolidate the laws relating to Municipal Corporations.	Sections 40 and 46 amended by 34 Vict. No. 373; repealed by 38 Vict. No. 506.
33 Vict. No. 360	An Act to amend and consolidate the laws relating to the sale and occupation of Crown Lands.	Section 6 in part repealed by 34 Vict. No. 391, and part by 36 Vict. No. 447 s. 4; remainder unrepealed.
33 Vict. No. 361	An Act to apply out of the consolidated revenue the sum of Six thousand seven hundred and ninety-five pounds eight shillings and nine pence to the service of the year One thousand eight hundred and sixty-nine, and the sum of Five hundred thousand pounds to the service of the year One thousand eight hundred and seventy.	Operation exhausted.
33 Vict. No. 362	An Act for granting an annuity to Lady Darling and for settling a sum of money upon certain trusts for the benefit of her children.	Unrepealed.
33 Vict. No. 363	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account" for Salaries, Wages, and Contingencies for the service of the year One thousand eight hundred and seventy.	Operation exhausted.
33 Vict. No. 364	An Act to apply out of the consolidated revenue the sum of Five thousand and nineteen pounds twelve shillings and six pence to the service of the year One thousand eight hundred and sixty-nine, and Two hundred and eighty thousand pounds to the service of the year One thousand eight hundred and seventy.	Operation exhausted.
33 Vict. No. 365	An Act to amend an Act intituled "An Act to amend the laws relating to Abattoirs and the Slaughtering of Cattle."	Unrepealed
33 Vict. No. 366	An Act to apply out of the consolidated revenue the sum of Seven hundred and fifty thousand pounds to the service of the year One thousand eight hundred and seventy.	Operation exhausted.
34 Vict. No. 367	An Act to apply a sum out of the consolidated revenue to the services of the year One thousand eight hundred and seventy, and to appropriate the Supplies granted in this session of Parliament, and for other purposes.	Operation exhausted.
34 Vict. No. 368	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Account" for Salaries, Wages, and Contingencies for the service of the year One thousand eight hundred and seventy.	Operation exhausted.
34 Vict. No. 369	An Act for taking an account of the Population and of the Live Stock in the year One thousand eight hundred and seventy-one.	Operation exhausted.

Date of Act.	Title of Act.	History of Act.
34 Vict. No. 370	An Act for the prevention of the Scab in Sheep.	Unrepealed.
34 Vict, No. 371	An Act to authorize the raising of Money for Public Works and other purposes.	Unrepealed.
34 Vict. No. 372	An Act to amend the "Mining Companies Limited Liability Act 1864," and for other purposes.	Section 1 repealed by 35 Vict, No. 409; remainder unrepealed.
34 Vict. No. 373	An Act to amend an Act intituled "An Act to amend and consolidate the laws relating to Municipal Corporations."	Repealed by 38 Vict. No. 506.
34 Vict. No. 374	An Act to extend the powers of the Acting Inspector-General of Public Works.	Expired.
34 Vict. No. 375	An Act for amending "The Waterworks Commissioners Act 1869."	Amended by 34 Vict. No. 375; unrepealed.
34 Vict, No. 376	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account" for Salaries, Wages, and Contingencies for the service of the year One thousand eight hundred and seventy.	Operation exhausted.
34 Vict. No. 377	An Act to apply a sum out of the consolidated revenue to the service of the year One thousand eight hundred and seventy-one, and to appropriate the Supplies granted in this session of Parliament, and for other purposes.	Operation exhausted.
34 Vict. No. 378	An Act to amend the "Real Property Statute 1864."	Unrepealed.
34 Vict. No. 379	An Act to amend the law relating to Insolvents and their Estates.	Part of s. 59 repealed and other sections amended by 35 Vict. No. 411; remainder unrepealed.
34 Vict, No. 380	An Act to repeal the Act intituled "An Act for the establishment of a Board of Agriculture,"	Unrepealed.
34 Vict, No. 381	An Act for enabling the Council of the shire of Ararat to erect a Shire Hall and buildings connected therewith, and to purchase land for such purposes.	Unrepealed.
34 Vict. No. 382	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account" for Salaries, Wages, and Contingencies for the service of the year One thousand eight hundred and seventy-one.	Operation exhausted.
34 Vict, No. 383	An Act to provide for reimbursing Members of the Legislative Council and of the Legislative Assembly their expenses in relation to their attendance in Parliament.	Continued by 38 Vict. No. 499.
34 Vict. No. 384	An Act to amend the law relating to the Property of Married Women.	Unrepealed,
34 Vict. No. 385	An Act for better securing the payment of Debts due to Workmen.	Unrepealed.
34 Vict. No. 386	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Account," for Salaries, Wages, and Contingencies for the service of the years One thousand eight hundred and seventy and One thousand eight hundred and seventy-one.	Operation exhausted.
34 Vict. No. 387	An Act to amend the "Shires Statute," and for other purposes.	Section 6 explained by 35 Vict. No. 401; repealed by 38 Vict. No. 506.

Date of Act.	Title of Act.	History of Act.
34 Vict. No. 388	An Act to enforce and collect Duties on the Estates of Deceased Persons.	Section 7 (IV.) repealed by 36 Vict. No. 427; ss. 24 and 25 and schedule amended by 35 Vict. No. 403; s. 25 repealed by 36 Vict. No. 427; remainder unrepealed.
34 Vict. No. 389	An Act to provide for the regulation and discipline of the Military and Naval Forces in the service of Her Majesty's Government in Victoria.	Part of s. 11 repealed and Act amended by 35 Vict. No. 417; remainder unrepealed.
34 Vict. No. 390	An Act to amend "The Wines, Beer, and Spirits Sale Statute 1864."	Unrepealed.
34 Vict. No. 391	An Act to provide for the abolition of State Aid to Religion.	Unrepealed.
35 Vict. No. 392	An Act to amend "The Lands Compensation Statute 1869."	Unrepealed.
35 Vict. No. 393	An Act to apply out of the consolidated revenue the sum of One hundred and thirty thousand pounds to the service of the year One thousand eight hundred and seventy-one and two.	Operation exhausted.
35 Vict. No. 394	An Act to apply out of the consolidated revenue the sum of Three hundred and seventy thousand pounds to the service of the year One thousand eight hundred and seventy-one and two.	Operation exhausted.
35 Vict. No. 395	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account" for a Salary and Contingencies for the service of the year One thousand eight hundred and seventy-one.	Operation exhausted.
35 Vict. No. 396	An Act to amend an Act intituled "An Act to incorporate the Proprietors of a certain banking company, called 'The Bank of New South Wales,' and for other purposes therein mentioned."	Unrepealed.
35 Vict. No. 397	An Act to amend "The Statute of Gaols 1864," and for other purposes.	Amended by 36 Vict No. 431; unrepealed.
35 Vict. No. 398	An Act to enable the Members of "The Victoria Racing Club" to sue and be sued in the name of the chairman for the time being of the committee of the said club, and for other purposes.	Unrepealed.
35 Vict. No. 399	An Act to amend "The Criminal Law and Practice Statute 1864," and for other purposes.	Unrepealed.
35 Vict. No. 400	An Act to grant certain Duties of Customs, and to repeal and alter certain other Duties of Customs.	Unrepealed.
35 Vict. No. 401	An Act to amend and explain "The Shires Statute," and for other purposes.	Repealed by 38 Vict. No. 506.
35 Vict. No. 402	An Act to facilitate the operations of Friendly Societies interested in land under "The Transfer of Land Statute."	Unrepealed.
35 Vict. No. 403	An Act to amend "The Duties on the Estates of Deceased Persons Statute 1870."	Section 5 repealed by 36 Vict. No. 427; remainder unrepealed.
35 Vict. No. 404	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Account" for Salaries, Wages, and Contingencies for the service of the year One thousand eight hundred and seventy-one, and for the six months ending thirtieth June One thousand eight hundred and seventy-two.	Operation exhausted.

Date of Act.	Title of Act.	History of Act.
35 Vict. No. 405	An Act to provide for a grant to Sir Francis Murphy, Knight.	Operation exhausted.
35 Vict. No. 406	An Act to enable "The Bendigo Waterworks Company" to sell and alienate and the Corporation of the city of Sandhurst to purchase and be possessed of the waterworks or other property of the said company, and for other purposes.	Unrepealed.
35 Vict. No. 407	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account" for Salaries, Wages, and Contingencies for the service of the year ending the thirtieth day of June One thousand eight hundred and seventy-two, and for repaying to the consolidated revenue moneys heretofore advanced therefrom.	Operation exhausted.
35 Vict. No. 408	An Act to amend an Act intituled "An Act to protect Game."	Unrepealed.
35 Vict. No. 409	An Act for the incorporation and winding up of Mining Companies.	Unrepealed.
35 Vict. No. 410	An Act to authorize the Western Port Coal Mining Company Limited to construct a tramway or railway, and to take and purchase certain lands for that purpose.	Amended by 37 Vict. No. 471; unrepealed.
35 Vict. No. 411	An Act to amend "The Insolvency Statute 1871."	Unrepealed.
35 Vict. No. 412	An Act to provide for the issue of Land Certificates to certain members of the Volunteer Force of Victoria.	Expired.
35 Vict. No. 413	An Act to enable the allowance of Drawbacks on the exportation of certain goods from Victoria, and for other purposes.	Expired.
35 Vict. No. 414	An Act to secure in certain cases the Right of Property in Telegraphic Messages.	Expired.
35 Vict. No. 415	An Act to authorize the construction of certain lines of railway by the State.	Unrepealed.
35 Vict. No. 416	An Act to apply a sum out of the consolidated revenue to the service of the year One thousand eight hundred and seventy-one and two, and to appropriate the Supplies granted in this session of Parliament, and for other purposes.	Operation exhausted.
35 Vict. No. 417	An Act to amend "The Discipline Act 1870."	Unrepealed.
36 Vict. No. 418	An Act to amend "The Prevention of Diseases of Animals Statute 1864."	Repealed by 36 Vict. No. 451.
36 Vict. No. 419	An Act to apply out of the consolidated revenue the sum of One hundred and nine thousand and forty-one pounds eight shillings and nine pence to the service of the year One thousand eight hundred and seventy-one and two, and Seven hundred thousand pounds to the service of the year One thousand eight hundred and seventy-two and three.	Operation exhausted.
36 Vict. No. 420	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Account" for Salaries, Wages, and Contingencies for the service of the year One thousand eight hundred and seventy-two and One thousand eight hundred and seventy-three.	Operation exhausted.
36 Vict. No. 421	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Liquidation and Construction Account," established under the provision of section forty-two of 33 Vict. No. 360.	Operation exhausted.

Date of Act.	Title of Act.	History of Act.
36 Vict. No. 422	An Act to protect Exhibitors of new inventions and works of industry and art.	Unrepealed.
36 Vict. No. 423	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account" for Salaries, Wages, and Contingencies for the service of the year ending the thirtieth day of June One thousand eight hundred and seventy-three.	Operation exhausted.
36 Vict. No. 424	An Act to amend "The Police Offences Statute 1865," and for the suppression of Betting and Gaming Houses.	Unrepealed.
36 Vict. No. 425	An Act to amend the law relating to the collection and payment of the Public Moneys, the audit of the Public Accounts, and the protection and recovery of the Public Property.	Unrepealed.
36 Vict. No. 426	An Act to incorporate a company to be called "The South Melbourne Gas Company," and for other purposes.	Unrepealed.
36 Vict. No. 427	An Act for amending the law relating to the administration of the Estates of Deceased Persons.	Unrepealed.
36 Vict. No. 428	An Act to authorize the raising of Money for Public Works and other purposes.	Unrepealed.
36 Vict. No. 429	An Act to apply out of the consolidated revenue the sum of Seventeen thousand pounds to the service of the year One thousand eight hundred and seventy-one and two, and One hundred and eighty-three thousand pounds to the service of the year One thousand eight hundred and seventy-two and three.	Operation exhausted.
36 Vict. No. 430	An Act to apply a sum out of the consolidated revenue to the service of the year ending on the last day of June One thousand eight hundred and seventy-three, and to appropriate the Supplies granted in this session of Parliament.	Operation exhausted.
36 Vict. No. 431	An Act to further amend the law relating to Gaols.	Unrepealed.
36 Vict. No. 432	An Act to amend "The Patents Statute 1865."	Unrepealed.
36 Vict. No. 433	An Act to further amend the "Real Property Statute 1864."	Unrepealed.
36 Vict. No. 434	An Act to enable the allowance of Drawbacks on the exportation of certain goods from Victoria, and for other purposes.	Continued by 37 Vict. No. 469.
36 Vict. No. 435	An Act to make better provision for the office of Master in Equity, and for better securing the moneys of the Suitors of the Supreme Court.	Unrepealed.
36 Vict. No. 436	An Act to amend the laws relating to or affecting Public Health, and to prevent the sale of adulterated or unwholesome food or drink.	Unrepealed.
36 Vict. No. 437	An Act to further amend an Act intituled "An Act to make provision for the better administration of Justice in the colony of Victoria."	Unrepealed.
36 Vict. No. 438	An Act to amend an Act intituled "An Act to protect Game."	Repealed by 37 Vict. No. 464.
36 Vict. No. 439	An Act for converting Debentures into Victorian Stock, and to give further facilities to the holders of such stock.	Unrepealed.
36 Vict. No. 440	An Act to amend "The Importation and Custody of Gunpowder Statute 1864."	Unrepealed.
36 Vict. No. 441	An Act to make better provision for the office of Agent-General.	Unrepealed.

Date of Act.	Title of Act.	History of Act.
36 Vict. No. 442	An Act to amend "The Waterworks Act 1865" and "The Waterworks Commissioners Act 1869."	Unrepealed.
36 Vict. No. 443	An Act to amend "The Statute of Evidence 1864."	Unrepealed.
36 Vict. No. 444	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account 1872" for Salaries, Wages, and Contingencies for the service of the year ending the thirtieth day of June One thousand eight hundred and seventy-three.	Operation exhausted.
36 Vict. No. 445	An Act to amend "The Juries Statute 1865."	Unrepealed.
36 Vict. No. 446	An Act to amend the "Mining Statute 1865."	Section 31 repealed by 38 Vict. No 504; remainder unrepealed.
36 Vict. No. 447	An Act to amend the law relating to Education.	Unrepealed.
36 Vict. No. 448	An Act to authorize Local Governing Bodies to make Rates and give security on waterworks, tolls, and rates for loans advanced.	Section 3 repealed by 38 Vict. No. 500; remainder unrepealed.
36 Vict. No. 449	An Act to provide for the treatment and cure of Inebriates.	Unrepealed.
36 Vict. No. 450	An Act to direct the application of a sum of One hundred thousand pounds appropriated by "The Public Works Loan Act 1872" for Loans to Municipal and other Corporations for water supply.	Unrepealed.
36 Vict. No. 451	An Act for the prevention of Diseases in Stock.	Continued by 38 Vict. No. 494.
36 Vict. No. 452	An Act to provide further for the Salaries of the Judges of the Supreme Court of the colony of Victoria.	Unrepealed.
36 Vict. No. 453	An Act to make valid the Marriage of a Man with the Sister of his Deceased Wife.	Unrepealed.
36 Vict. No. 454	An Act to amend an Act intituled "An Act to enable the Bishops, Clergy, and Laity of the United Church of England and Ireland in Victoria to provide for the regulation of the affairs of the said church."	Unrepealed.
37 Vict. No. 455	An Act to amend "The Post Office Statute 1866."	Unrepealed.
37 Vict. No. 456	An Act to apply out of the consolidated revenue the sum of Sixty-five thousand one hundred and forty-four pounds eight shillings and one penny to the service of the year One thousand eight hundred and seventy-two and three, and the sum of One million pounds to the service of the year One thousand eight hundred and seventy-three and four.	Operation exhausted.
37 Vict. No. 457	An Act to enable the Governor in Council to prohibit the importation of Diseased Grape Vines and Grape Vine cuttings.	Unrepealed.
37 Vict. No. 458	An Act to amend "The Instruments and Securities Statute 1864," and to provide for constituting certain days Bank Holidays.	Unrepealed.
37 Vict. No. 459	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account 1872" for Salaries, Wages, and Contingencies for the service of the year ending the thirtieth day of June One thousand eight hundred and seventy-four.	Operation exhausted.

Date of Act.	Title of Act.	History of Act.
37 Vict. No. 460	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Account" for Salaries, Wages, and Contingencies for the service of the year One thousand eight hundred and seventy-three and one thousand eight hundred and seventy-four.	Operation exhausted.
37 Vict. No. 461	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Liquidation and Construction Account," established under the provision of section forty-two of 33 Vict. No. 360.	Operation exhausted.
37 Vict. No. 462	An Act to sanction the issue and expenditure of certain sums from "The Public Works Account 1872" for Salaries, Wages, and Contingencies for the service of the year ending the thirtieth day of June One thousand eight hundred and seventy-four.	Operation exhausted.
37 Vict. No. 463	An Act to further amend "The Statute of Gaols 1864."	Unrepealed.
37 Vict. No. 464	An Act to further amend an Act intituled "An Act to protect Game," and to repeal the Act No. 438.	Unrepealed.
37 Vict. No. 465	An Act to enable the South Melbourne Gas Company to extend the provisions of "The South Melbourne Gas Company's Act 1872," and to confer on the said company additional powers, and for other purposes.	Unrepealed.
37 Vict. No. 466	An Act for the supervision and regulation of Workrooms and Factories and the employment of Females therein.	Unrepealed.
37 Vict. No. 467	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Liquidation and Construction Account," established under the provisions of section forty-two of 33 Vict. No. 360.	Operation exhausted.
37 Vict. No. 468	An Act to authorize the raising of Money for Railways and for other purposes.	Unrepealed.
37 Vict. No. 469	An Act to continue an expiring law.	Unrepealed.
37 Vict. No. 470	An Act to continue for one year the Endowment of certain Shires.	Repealed by 38 Vict. No. 506.
37 Vict. No. 471	An Act to amend and continue an Act intituled "An Act to authorize the Western Port Coal Mining Company Limited to construct a tramway or railway, and to take and purchase certain lands for that purpose."	Unrepealed.
37 Vict. No. 472	An Act to apply a sum out of the consolidated revenue to the service of the year ending on the last day of June One thousand eight hundred and seventy-four, and to appropriate the Supplies granted in this session of Parliament.	Operation exhausted.
37 Vict. No. 473	An Act to amend the law relating to Fisheries.	Unrepealed.
37 Vict. No. 474	An Act to amend the law relating to Life Assurance Companies.	Unrepealed.
37 Vict. No. 475	An Act to authorize the construction of certain Lines of Railway by the State.	Unrepealed.
37 Vict. No. 476	An Act to amend the law relating to the Police Force in Victoria.	Unrepealed.
37 Vict. No. 477	An Act to legalize the formation of "Industrial and Provident Societies."	Unrepealed.

Date of Act.	Title of Act.	History of Act.
37 Vict. No. 478	An Act to amend the law relating to the Impounding of Cattle.	Unrepealed.
37 Vict. No. 479	An Act to amend the law relating to Dividing Fences.	Unrepealed.
37 Vict. No. 480	An Act to provide for the regulation and inspection of Mines.	Unrepealed.
38 Vict. No. 481	An Act to extend the powers of the Acting Engineer-in-Chief of the Victorian Railways.	Unrepealed.
38 Vict. No. 482	An Act to apply out of the consolidated revenue the sum of One hundred and five thousand three hundred and sixty-five pounds six shillings and ten pence to the service of the year One thousand eight hundred and seventy-three and four, and the sum of Five hundred thousand pounds to the service of the year One thousand eight hundred and seventy-four and five.	Operation exhausted.
38 Vict. No. 483	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Account," for Salaries, Wages, and Contingencies for the service of the year One thousand eight hundred and seventy-four and One thousand eight hundred and seventy-five.	Operation exhausted.
38 Vict. No. 484	An Act to apply out of the consolidated revenue the sum of Two hundred and twenty-seven thousand and seven hundred pounds to the service of the year One thousand eight hundred and seventy-four and five.	Operation exhausted.
38 Vict. No. 485	An Act to amend "An Act for the interpretation of legislative enactments, and for shortening the language used therein."	Unrepealed.
38 Vict. No. 486	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account 1872" for Salaries, Wages, and Contingencies for the service of the year ending the thirtieth day of June One thousand eight hundred and seventy-five.	Operation exhausted.
38 Vict. No. 487	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account 1872" for Salaries, Wages, and Contingencies for the service of the year ending the thirtieth day of June One thousand eight hundred and seventy-five.	Operation exhausted.
38 Vict. No. 488	An Act to apply out of the consolidated revenue the sum of Five hundred thousand pounds to the service of the year One thousand eight hundred and seventy-four and five.	Operation exhausted.
38 Vict. No. 489	An Act to alter certain Duties of Customs, and to repeal other Duties of Customs.	Unrepealed.
38 Vict. No. 490	An Act to continue the powers of an Act intituled "An Act to incorporate the Proprietors of a certain banking company called 'The Bank of Victoria,' and for other purposes therein mentioned."	Unrepealed.
38 Vict. No. 491	An Act to apply out of the consolidated revenue the sum of Five hundred thousand pounds to the service of the year One thousand eight hundred and seventy-four and five.	Operation exhausted.
38 Vict. No. 492	An Act to apply a sum out of the consolidated revenue to the service of the year ending on the last day of June One thousand eight hundred and seventy-five, and to appropriate the Supplies granted in this session of Parliament.	Operation exhausted.

Date of Act.	Title of Act.	History of Act.
38 Vict. No. 493	An Act to amend the law relating to Building Societies.	Unrepealed.
38 Vict. No. 494	An Act for the continuation of an expiring law.	Unrepealed.
38 Vict. No. 495	An Act to amend the law relating to Neglected and Criminal Children.	Unrepealed.
38 Vict. No. 496	An Act to amend the "Public Works Loan Act 1872."	Unrepealed.
38 Vict. No. 497	An Act to sanction the issue and expenditure of certain sums from "The Public Works Loan Account 1872" for Salaries, Wages, and Contingencies for the service of the year ending the thirtieth day of June One thousand eight hundred and seventy-five.	Operation exhausted.
38 Vict. No. 498	An Act for the continuation of an expiring law.	Unrepealed.
38 Vict. No. 499	An Act for the continuation of an expiring law.	Unrepealed.
38 Vict. No. 500	An Act to amend "The Local Governing Bodies Loan Act 1872."	Unrepealed.
38 Vict. No. 501	An Act to amend the law relating to Compulsory Vaccination.	Unrepealed.
38 Vict. No. 502	An Act to erect a New Court for the Trial of Offences, to establish uniformity of venue in Civil and Criminal Judicature, and to amend the practice and procedure of Courts of Criminal Jurisdiction.	Unrepealed.
38 Vict. No. 503	An Act to further amend the law relating to the Customs.	Unrepealed.
38 Vict. No. 504	An Act to amend "The Mining Statute 1865 amendment Act."	Unrepealed.
38 Vict. No. 505	An Act to sanction the issue and application of certain sums of money from "The Railway Loan Liquidation and Construction Account," established under the provision of section forty-two of 33 Vict. No. 360.	Operation exhausted.
38 Vict. No. 506	An Act to consolidate and amend the laws relating to Local Government.	Unrepealed.

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TO THE

CLOSE OF THE FIRST SESSION OF THE EIGHTH PARLIAMENT

HOLDEN IN THE

38TH YEAR OF HER MAJESTY QUEEN VICTORIA, 1874.

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TO THE

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OF THE

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IN

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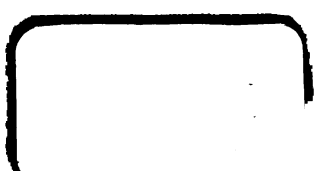
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